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2020 Rule of Law Report
The rule of law situation in the European Union

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ABSTRACT

The Lithuanian justice system has been subject to a significant number of reforms, related to the appointment of judges, the structure of the Supreme Court and the judicial map. These reforms appear to have had a positive impact in the efficiency and quality of the justice system. The perceived independence of the judiciary has improved. The Constitutional Court has clarified the scope of the functional immunity of judges. The case surrounding the dismissal of the Chairperson of the Civil Division of the Supreme Court and a consequent lack of appointment to the post of President of that Court was submitted to the Constitutional Court, which ruled that the legal acts relating to the dismissal were in conflict with the Constitution and the Law on Courts. The justice system presents good results in terms of efficiency, with short disposition times and low backlogs of cases, and new measures to further improve it are foreseen. The use of digital tools in the justice system is widespread, in particular electronic case management and court statistics are available in all courts.

Lithuania has largely put in place an institutional framework to fight corruption with a key role played by the Special Investigations Service, which combines policy coordination and preventive competences with investigative powers. The implementation of some of the measures in the anti-corruption action plan are delayed. Procedures on whistle-blowers reporting and protection were adopted at the end of 2018. Parliament adopted the amendments to the Law on Lobbying in June 2020. The verification of conflict of interest declarations is hampered by the lack of a single registry of interest.

The legal framework for media pluralism in Lithuania guarantees the basic right of freedom of expression and the right to information. The media regulators are considered independent and effective. Availability of information on media ownership raises some concerns, as in practice public information on media ownership is often limited or outdated. A recently adopted law on public information is intended to ensure greater transparency and objectivity of public information. Another issue of concern is indirect political ownership of media through subsidiaries with political interests, especially with regard to local and regional media. A new media policy document ‘Strategic Directions of the Public Information Policy 2019–2022’ envisages a range of measures to strengthen media pluralism in Lithuania.

As regards the checks and balances, the legal framework governing the legislative process ensures its transparency and the involvement of stakeholders. A reform from 2019 has given the possibility to individual citizens to trigger constitutional review. The Parliament Ombudsman plays an important role in safeguarding fundamental rights, and the Equal Opportunities Ombudsman has a mandate to investigate complaints and provide conclusions and recommendations on any issue related to discrimination. The participation of the civil society in the decision making process is ensured and a new Law creates the legal basis for a National NGO fund, which is set to become a sustainable mechanism of strengthening institutional capacities of NGOs in 2020.

I. JUSTICE SYSTEM

The justice system is composed of 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). District court judges are appointed by the President of the Republic, upon the advice of a Selection Commission, while Supreme Court judges are appointed by Parliament *(Seimas)*[1], on the nomination by the President of the Republic, following the advice of the Judicial Council. The Judicial Council, entirely composed of judges appointed by their peers, is the executive body of judicial self-governance, and ensures the independence of courts and judges[2]. 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. The Constitutional Court is composed of nine judges, appointed by Parliament, from among candidates presented by the President of the Republic, the Speaker of the Parliament, and the President of the Supreme Court; it adjudicates on the constitutionality of legislation and of the acts of the President and the Government. Prosecutors are independent; the Prosecutor General is appointed and dismissed by the President of the Republic upon the assent of the Parliament[3]. Lower ranked prosecutors are appointed by the Prosecutor General, on the recommendation of a Selection Commission[4]. The Bar is an independent part of the legal system, and is financed from contributions paid by advocates and from other sources.

Independence

In 2020, new legal provisions on appointments of the judiciary came into force. The amendments to the Law on Courts strengthened the role of the Judicial Council in the Selection Commission of Candidates to Judicial Offices[5]. This Selection Commission is now composed of three members who are judges selected by the Judicial Council, and four lay members selected by the President of the Republic[6]. Previously, both judicial and lay members were selected by the President of the Republic. Furthermore, the criteria for the selection of candidates to judicial office are now approved by the Judicial Council. Nevertheless, the opinion of the Selection Commission remains non-binding. The amendments to the Law on Courts introduced the possibility for candidates to challenge the opinion of the Selection Commission before the Supreme Court. This is possible in case of a substantial procedural violation, where such violation could affect the objective assessment of candidates. In such cases, the Supreme Court is authorised to suspend the appointment of a judge to a court, and may instruct the selection panel to re-evaluate the applicant, or to revoke the findings[7]. Although the judges elected by their peers continue to make up less than half of the members of the Selection Commission, and the possibility of review remains limited to procedural aspects, the increased role of

1 The Parliament of the Republic of Lithuania consists of one chamber, i.e. *Seimas*.
2 Art. 119 of the Law on Courts.
3 Deputy Prosecutors General are appointed and dismissed by the President of the Republic on the proposal of the Prosecutor General.
4 Arts. 22 and 26 of the Law on the amendment of the law on the prosecutor's office, No. I-599, of 13 October 1994.
5 Law No. XIII, of 16 July 2019.
6 Art. 55, Law on Courts, of 31 May 1994, No. I-480, as amended.
7 See previous note.

the judiciary in the selection of new judges and in career advancement of judges is consistent with Council of Europe recommendations[8].

The level of perceived judicial independence is average to high among the general public and companies. The level of perceived judicial independence has further improved and is high among the companies (66% of companies rated their perception as 'fairly good' or 'very good')[9] and average among the general public (52% perceive it as 'fairly good' or 'very good')[10].

The Constitutional Court has clarified the scope of the functional immunity of judges. On 9 March 2020, it ruled that the constitutional provisions on immunities only guarantee protection from measures to restrict a person's freedom, and that procedural diligences, such as searches, do not amount to restrictions of freedom and that, consequently, an authorisation from the Parliament or the President is not necessary. This ruling was delivered in the context of a submission of the Parliament, following a ruling of the Supreme Court in 2019. In this ruling, the Supreme Court found that, during criminal investigations in which judges are involved, all searches needed to be preceded by an authorisation of the Parliament or the President. This decision was criticised by the Prosecutor General, according to whom such a requirement amounted to an absolute immunity for judges[11].

Members of the judiciary are suspected of being involved in corruption cases. In February 2019, eight judges were detained under suspicions of corruption, bribery, trading in influence and abuse of power. The judges were suspected of receiving bribes to influence verdicts in a range of administrative, civil and criminal court cases. The criminal cases are currently pending. The President of the Republic sought the opinion of the Judicial Council as regards the possible dismissal of the judges involved in the corruption case[12] and, in August 2019, the Judicial Council gave its positive opinion to the dismissal of five of the judges[13]. In public declarations, the Judicial Council referred to the consequences of this case for the reputation of the profession.

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8 Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe, paras 47 and 48. These foresee, in particular, that 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, and that unsuccessful candidates should have the right to challenge the decision, or at least the procedure under which the decision was made. See also GRECO, Fourth evaluation round – Corruption prevention in respect of members of Parliament, judges and prosecutors, Recommendation vii.

9 Figure 44, 2020 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%).

10 Figure 46, 2020 EU Justice Scoreboard.

11 LRT (2019), Investigators decry Lithuania's Supreme Court ruling that may "negatively affect fight against corruption". The Committee of Ministers of the Council of Europe recommends that, when not exercising judicial functions, judges should be liable under civil and criminal law in the same way as any other citizen. CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe, para 65. See also CDL-AD(2010)004, Report on the Independence of the Judicial System Part I: The Independence of Judges adopted by the Venice Commission at its 82nd Plenary Session (Venice, 12-13 March 2010), para 61.

12 According to Art. 90(1) §6 of the Law on Courts, '[t]he judge shall be dismissed […] when he engages in a conduct discrediting the office of judge'. The Parliament is competent to dismiss judges of the Supreme Court, on the motion of the President of the Republic.

13 The Judicial Council gave negative advice on the dismissal of the three other judges.

The Constitutional Court ruled that the dismissal of the Chairperson of the Civil Division of the Supreme Court was unconstitutional. In April 2020, in the framework of the procedure to appoint a new President of the Supreme Court, the President of the Republic proposed to Parliament the then Chairperson of the Civil Division of the Supreme Court, who had also been exercising functions as acting President[14]. In an unprecedented manner, Parliament's legal committee submitted the President's proposal to two different votes: one on the dismissal as Chairperson of the Civil Section, and a separate one on the appointment as President of the Supreme Court. The first proposal was approved in the vote, while the second was rejected. The judge was thus dismissed from the position as Chairperson of the Civil Division, and subsequently lost the position of acting President. The case was brought before the Constitutional Court by a group of members of Parliament, who question if the decision of Parliament to dismiss the judge from the position as Chairperson of the Civil Division can be reconciled with any of the grounds for dismissal provided for in Article 115 of the Constitution and Article 90 of the Law on Courts. On 2 September 2020, the Constitutional Court ruled that the concrete decision of Parliament to dismiss the judge from the position of Chairperson of the Civil Division was unconstitutional, and contradicted specific provisions of the Law on Courts[15]. The Constitutional Court also ruled that from the day of the official publication of the ruling, the judge who was dismissed should hold the position of Chairperson of the Civil Division of the Supreme Court[16]. The dismissal from the position of Chairperson of the Civil Division has had, according to the Judicial Council, a detrimental effect on the transparency of judicial appointments and independence of the judiciary[17].

Quality

A number of reforms have been implemented, including a comprehensive reform of the judicial map. From January 2018, the number of district courts was reduced from 49 to 12, and the number of regional administrative courts was reduced from five to two. However, none of the existing court-houses was physically closed, as court chambers continue to function in the previously existing court premises. This reduction in the number of courts was motivated by a need to equalise the workload and working conditions of judges and court staff, and to rationalise the allocation of human and material resources. According to the National Courts Administration, the court reform has resulted in gains in efficiency, having accelerated hearings, and in a more effective management of the courts[18]. The judiciary, prosecution and the Bar Association were consulted throughout the preparation of the reform. The Judicial Council is involved in the state strategic management system adopted by the Law on Strategic Management of the Republic of Lithuania[19] as an independent participant. This enables the judiciary, as one of the three independent constitutional authorities, to participate effectively in the development of the State's strategic directions and in the negotiations on financing for their implementation.

[14] The Parliament is competent to appoint the President of the Supreme Court, on the proposal of the President of the Republic, who must consult the Judicial Council.
[15] Constitutional Court, judgment of 2 September 2020, Decision No. No. KT153-N13/2020.
[16] The judge concerned had also appealed the dismissal decision before the Vilnius District Court, which granted interim measures, reinstating the judge in the position as Chairperson of the Civil Division.
[17] LRT (2020), Vote on Supreme Court candidate "negates" rule of law in Lithuania – Judicial Council.
[18] Communiqué from the National Courts Administration, of 29 March 2019.
[19] Law No. XIII-3096, adopted on 25 June 2020.

The structure of the Supreme Court has been modified. In November 2019, a Presidential Decree reduced the number of judges in the Supreme Court from 35 to 32. A similar reform had occurred in 2012, when the number of judges was reduced from 37 to 35. Both reforms were justified by the need for better allocation of resources to the workload of the courts, and the consequent increase in the number of judges in lower courts. The proposal for reduction in the number of judges was submitted by the President of the Republic to the consideration of the Supreme Court before its implementation. This change will not implicate the demotion or dismissal of any judges, as the Supreme Court is already working, in practice, with the same number of judges as that proposed[20].

The use of digital tools in the justice system is widespread. Lithuania is one of the few Member States where electronic case management and court statistics are available in all courts[21]. Electronic means to transmit a case, transmit summons or monitor the stages of a proceeding are also available in the majority of the courts[22]. Data from 2019 show that the submission of procedural documents in electronic form is also increasing[23]. All published judgments, from all instances and jurisdictions, are available online[24].

The pre-existing digital solutions and the legal framework allowed for some of the court activities to be maintained during the COVID-19 pandemic. According to information provided by the authorities, the Government prepared a COVID-19 management strategy, to be implemented in cooperation with the Judicial Council and the National Courts Administration, in which it is proposed to develop further the legal framework and the technological means to foster the possibility of conducting remotely civil, criminal and administrative proceedings.

Efficiency

The justice system presents good results in terms of efficiency. Lithuania maintains its short disposition time in civil and commercial cases, both in first instance, and when all instances are considered[25]. The courts also further reduced their already comparatively low backlogs[26].

New measures to further improve efficiency are foreseen. Other than the already existing initiatives to improve the use of electronic means and promote alternative dispute resolution methods and mediation, new legislation was adopted, which will allow administrative disputes to be resolved through out-of-court mediation[27], and draft legislation is being prepared that will allow to transfer cases of administrative offences to non-judicial institutions.

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[20] Three judicial posts at the Supreme Court are already vacant following the retirement of one judge, an application of the disciplinary sanction of dismissal to another judge, and an appointment of a third judge to exercise functions in the General Court of the European Union.

[21] Figure 40, 2020 EU Justice Scoreboard.

[22] Figure 27, 2020 EU Justice Scoreboard.

[23] National Courts Administration (2020), The Courts of Lithuania - Activity Results 2019.

[24] Figure 28, 2020 EU Justice Scoreboard.

[25] Figures 6 and 7, 2020 EU Justice Scoreboard.

[26] Figure 13, 2020 EU Justice Scoreboard.

[27] Law No. XIII-3048, of 11 June 2020, amending Law No. X-1702. The amendments will come into force on 1 January 2020.

II. ANTI-CORRUPTION FRAMEWORK

The legal and institutional framework to prevent and fight corruption is broadly in place. The competence to fight corruption is shared between several authorities. The Special Investigations Service has competences to detect and investigate the most serious corruption-related criminal offenses. The Prosecution Service conducts and coordinates pre-trial investigations carried out by the organised crime investigation division of the criminal police and the Special Investigations Service. As regards the prevention of corruption, reforms strengthening the framework of conflicts of interests have been adopted. The legal protection of whistle-blowers is in place.

Lithuania scores 60/100 on the Transparency international Corruption Perception Index and ranks 11th in the European Union and 35th globally[28]. According to the Special Eurobarometer Survey conducted among EU citizens 2020, 92 % of respondents perceive corruption as a widespread problem (EU average 71%) and 26% feel personally affected by corruption in their daily lives (EU average 26%). As regards businesses, 68% companies consider that corruption is widespread, (EU average 63%), however, according to the surveys, only 15% consider that corruption is a problem when doing business (EU average 37%)[29]. Then, 34% of people find that there are enough successful prosecutions to deter people from corrupt practices (EU average 36%), while 38% of companies consider that people and businesses caught for bribing a senior official are appropriately punished (EU average 31%).

The legislative framework is broadly in place. It contains provisions criminalising corruption and covers active and passive bribery and trading in influence, extending to officials operating abroad. The legal framework has been updated with the amendment of the Law on the Prevention of Corruption. This Law now obliges civil servants to report possible cases of corruption when they obtain credible information about the misdoing or witness possible crime.[30]

The implementation of the National Anti-Corruption Programme for 2015-2025 is ongoing, though some of the measures foreseen are lagging behind. The Governmental Commission for Coordination of the Fight against Corruption is composed by 19 members and is responsible for the preparation, coordination and implementation of the National Anti-Corruption Programme, as well as of the coordination and control of the activities of state institutions in the fight against corruption[31]. The Commission is under the responsibility of the Prime Minister. The action plan is implemented and co-ordinated together with the Special Investigation Service. As noted in the European Semester report, the implementation of the measures of the anti-corruption programme needs to be stepped up[32].

The competences for anti-corruption policies as well as for preventing, investigating and prosecuting corruption are divided between several authorities. The Special Investigation Service (STT) is the main agency with competences to detect and investigate the most serious corruption-related criminal offenses, including those

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28 Transparency International (2020), Corruption Perceptions Index 2019.
29 Flash Eurobarometer 482 (2019).
30 The Law on the Prevention of Corruption, No. IX-904, 2019
31 Decree No. 21 of the Prime Minister of the Republic of Lithuania on approving the composition of the Government Commission of the Republic of Lithuania for the coordination the fight against corruption, 31 January 2019.
32 European Commission, Country Report Lithuania (SWD(2020) 514 final), p: 43.

committed by the persons occupying leading positions in the civil service[33]. It prepares and implements corruption prevention measures, investigates corruption-related offences and promotes anti-corruption awareness raising and education[34]. The STT is accountable to the President and Parliament. The STT has started 58 and 53 pre-trial investigations related to corruption offences in 2018 and 2019, respectively.[35] In 2018, STT has established a new department on analytical anti-corruption intelligence. The main purpose of the new capability is to mitigate threats and risks caused by corruption before they materialise into corruption-related crimes, support ongoing criminal investigations, supporting decision-making on corruption prevention measures or anti-corruption education programmes. Among other authorities with investigative competences are the police, State Border Guard Service, Financial Crime Investigation Service and Customs, which conduct pre-trial investigations into corruption-related criminal offenses in cases where the criminal offenses involve the officers of these institutions.

The divisions of organised crime and corruption investigation within the Prosecutor General's Office and the regional prosecutor's offices conduct and coordinate pre-trial investigations carried out by the organised crime investigation divisions of the criminal police and the STT. There are in total 20 prosecutors and 15 assistants within the division organised crime and corruption investigations of the Office of the Prosecutor General. As to regional prosecutor's offices,[36] there are in total 40 prosecutors and 17 legal and technical assistants[37]. Each prosecutor has autonomy in deciding whether to initiate or undertake criminal investigation. The Corruption Prevention Commission of the Prosecution Service has competences on corruption prevention within the Prosecution Service and is responsible for putting in place an efficient system of corruption prevention measures and control.

Reforms aiming at strengthening the framework of conflicts of interests have been adopted. Civil servants, members of Parliament, members of the Government and other public sector officials are bound to avoid any conflict of interest and act in a way that would not raise doubts about their integrity[38]. Elected and appointed officials and their spouses are required to publicly declare their assets. Declarations of interest and assets are filed to the Chief Official Ethics Commission (COEC) and stored in their database. On 27 June 2019, Parliament adopted a new version of the Law on the Adjustment of Public and Private Interests (LAPPI), which entered into force on 1 January 2020. The law aimed to ease the procedures for declaring conflicts of interest[39]. A declaration is to be submitted within one month after the election, appointment, or assignment to a position. In accordance with the new provisions, the data to be declared has changed. Declarations of private interest and assets are filed to the Chief Official Ethics Commission (COEC) and made public[40]. Since 2020, about 90% of these are public[41]. The COEC applies an ad-hoc approach, opening investigations mostly based on reports by whistle-blowers or the media. The COEC is working on the establishment of the

[33] In particular, the STT finalised a nationally well-known pre-trial investigation concerning political corruption and possibly illegal lobbying that was opened in 2016 and involved a major business group. In 2019, the STT and the Office of the Prosecutor General launched a pre-trial investigation related to corruption in Lithuania's legal system (see above, Section I).
[34] Special Investigation Service of the Republic Of Lithuania (2019), Annual Report.
[35] European Commission, Country Report Lithuania (SWD(2020) 514 final.
[36] Vilnius, Kaunas, Klaipėda, Šiauliai and Panevėžys.
[37] Input from Lithuania for the 2020 Rule of Law Report.
[38] Law No. VIII-371, of 2 July 1997, as amended.
[39] The format of declarations remained the same, but only certain parts became compulsory.
[40] The database can be accessed at https://www.vtek.lt/deklaraciju-paieska.
[41] Until 2020 only half were public (Input from Lithuania for the 2020 Rule of Law Report).

Register of Private Interests (PINREG), which is expected to become operational at the end of 2020 and increase the efficiency of private interest and assets declaration verification through the implementation of a crosschecked information based approach.

The Chief Official Ethics Commission (COEC) is tasked with supervising lobbying activities. The Register of Lobbyists, managed by the COEC, is public[42]. It provides information on all lobbyists that are officially registered and reports on their lobbying activities.[43] The COEC is modernising the Register of Lobbyists to make more effective for lobbyists to submit reports[44]. The new version of the register is expected to become operational in December of 2020. Parliament adopted amendments to the Law on Lobbying in June 2020, which aim to increase the transparency of lobbying activities, thereby making the control of lobbying activities more effective. As regards 'revolving doors', the new provisions of the Law on the Adjustment of Public and Private Interests (LAPPI) foresee a cooling off period. After leaving the civil service, individuals cannot take up employment in a legal entity if, during the period of one year immediately prior to leaving the civil service, they directly drafted, considered and made decisions concerning the supervision or control of the legal entity in question (irrespective of the form of the legal entity) or decisions that granted funding from the state or municipal budgets of the Republic of Lithuania to said legal entity and other decisions concerning the assets of that entity.

Legal protection of whistle-blowers is in place. The Law on the Protection of Whistle-blowers entered into January 2019 and applies to both public and private sectors[45]. The law foresees specific provisions guarantying the protection of whistle-blowers when information is provided, among others on: threats to the public and personal safety and health, threats on environment, attempts to obstruct or unlawfully influence investigations, financing of illicit activity. The Prosecution Service examines the reports on breaches and coordinates the process of whistle-blower protection. Within 5 working days, the status of whistle-blower should be confirmed or rejected. If the status is rejected, the report is sent back to the reporting person who can appeal against the decision. In 2019, 75 decisions were made with 36 persons having being recognised with the status of whistle-blowers and 39 cases rejected.

III. MEDIA PLURALISM

The legal framework concerning media pluralism is based on constitutional safeguards and sectorial legislation. The Constitution prohibits censorship and monopolisation of the media and guarantees freedom of speech and freedom of information[46]. The institutional framework consists of the Lithuanian Radio and Television Commission, the Office of the Inspector of Journalist Ethics and the Public Information Ethics Association. A recently adopted law on public information is intended to ensure greater transparency and objectivity of public information. A new media policy document 'Strategic Directions of the Public Information Policy 2019–2022' envisages a range of measures to strengthen media pluralism in Lithuania.

[42] The register can be accessed at www.lobistai.lt.
[43] Currently there are 106 registered lobbyists in the country.
[44] Input from Lithuania for the 2020 Rule of Law Report.
[45] Law No. XIII-804, of 28 November 2017.
[46] Between 2019 and 2020 Lithuania climbed two places in the Reporters Without Borders World Press Freedom Index, now registering at 28th position worldwide.

The institutional framework consists of several bodies. The regulator for audio-visual media services, Lithuanian Radio and Television Commission (LRTK), is an independent body accountable to Parliament, supervising the activities of audio-visual media service providers under Lithuanian's jurisdiction. Its main decisions, annual reports and studies are published and available online. Pursuant to the Law on the Provision of Information to the Public, Parliament appoints the chairperson and the deputy chairperson of the Lithuanian Radio and Television Commission. The latest edition of the Media Pluralism Monitor (MPM 2020)[47] has reported a very low risk with regard to the independence and effectiveness of the Lithuanian media regulatory authority[48]. Moreover, the Office of the Inspector of Journalist Ethics is a state institution, which assesses compliance with the principles of provision of information to the public set forth in the Law on the Provision of Information to the Public. It examines complaints and investigates cases of violations of honour and dignity and violations of the right to protection of privacy in the media. Its independence was also assessed at very low risk by the Media Pluralism Monitor 2020. In addition, the Public Information Ethics Association is a self-regulatory body, which aims to ensure compliance with professional ethics, foster public awareness of ethical principles and raise awareness of critical analysis of news. Its members include public information producers (media outlets) and journalists' organisations.

Lithuanian law provides safeguards to ensure transparency of media ownership. The Law on the Provision of Information to the Public requires media companies to disclose data on their ownership structures to the designated authorities, namely the Ministry of Culture. The Media Pluralism Monitor 2020 has assessed transparency of media ownership in Lithuania at medium risk, as in reality public information on media ownership is often limited or outdated. It should be recalled in this regard that the revised Audio-visual Media Services Directive encourages Member States to adopt legislative measures providing that media service providers under their jurisdiction make information concerning their ownership structure accessible, including the beneficial owners[49].In 2019, changes to the Law on the Provision of Information to the Public pertaining to the Information System of Producers and Disseminators of Public Information entered into force. According to the Lithuanian authorities, the aim of the changes is to ensure greater transparency of public information processes and objectivity of public information. The system should be launched at the end of 2020 and will disclose additional information about media outlets.

A new strategy aims to strengthen media independence. The Media Pluralism Monitor 2020 highlights the issue of indirect political ownership of media through subsidiaries with political interests, especially with regard to local and regional media, resulting in a high-risk score for the political independence. This appears to be an important issue in view of the finding of MPM 2020 which highlights the concentration of news media ownership in Lithuania, with few companies owning the majority of news media outlets. In 2018, the Council of Europe's Platform to promote the protection of journalism and safety of journalists published one alert, concerning the establishment of an ad-hoc Parliamentary Commission in January 2018 to consider legal amendments in order to regulate the governance and supervision of the Lithuanian National Radio and Television[50]. According to the Lithuanian Union of Journalists, the chairman of Lithuanian Radio and Television Commission and the European Broadcasting Union,

47 2020 Media Pluralism Monitor.
48 This finding was also confirmed by stakeholders in the context of the country visit to Lithuania.
49 Art. 5(1) Audio-visual Media Services Directive (Directive (EU) 2018/1808).
50 Council of Europe, Platform to promote the protection of journalism and safety of journalists.

some of the suggested amendments would have imposed political control on the Lithuanian National Radio and Television and endangered the independence of the public broadcaster. On 26 March 2020, taking into consideration the provisions set out in the Law amending the Law on the National Radio and Television, the Council of Europe's Platform declared this case to be resolved, concluding it is no longer an active threat to media freedom[51]. In February 2019 the Ministry of Culture of the Republic of Lithuania adopted a new media policy document, 'Strategic Directions of the Public Information Policy 2019–2022', which aims at shaping and coordinating public information policy based on clear national priorities, such as promoting content diversity and quality, reliable public information, greater media independence and accountability, and media and information literacy.

The right to information is enshrined in the Lithuanian Constitution, and the Law on the Provision of Information to the Public regulates the public's right to access administrative documents held by public authorities. However, journalists sometimes struggle to get access to public information, as state institutions at times refuse to grant it[52]. The practice of providing journalists with the data of the Centre of Registers for free was abolished in September 2018 and journalists have harshly criticised this new restriction to access public information[53]. The Government has put in place a temporary solution, however laws needed for a permanent and comprehensive mechanism are yet to be adopted.

A legal framework for journalists' protection is in place. Stakeholders indicate that the Government generally respects freedoms of speech and the press[54]. Nevertheless, imprisonment is among the envisaged sanctions for defamation[55]. The Media Pluralism Monitor 2020 has assessed the basic right of freedom of expression and the right to information at low risk, just as the indicator of journalistic profession, standards and protection. Amendments to the Law on the Provision of Information to the Public were initiated by several members of Parliament in order to prevent violations of the basic principles of informing the public and ensure journalists' independence from political or government pressure as well as illegal persecution for criticism[56]. These amendments were encouraged by the Union of the Lithuanian Journalists[57].

IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

Lithuania is a representative democratic republic with a directly elected President, a unicameral Parliament *(Seimas)* and a Constitutional Court in charge of constitutional review of laws. Parliament, the President, the Government, and a group of at least 50.000 citizens have the right of legislative initiative. The Parliament Ombudsman is tasked with protecting and promoting human rights and freedoms.

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51 Council of Europe, Platform to promote the protection of journalism and safety of journalists, Threats to the Independence of the Lithuanian LRT.

52 Reporters without Borders, information on Lithuania, as confirmed by representatives of NGOs based in Lithuania during the country visit.

53 European Federation of Journalists, Lithuanian journalists criticise new restriction to access public information, 8 August 2018.

54 Freedom House, information on Lithuania.

55 Centre for Media Pluralism and Media Freedom (2019), Decriminalisation of Defamation – Factsheet.

56 According to the work program of Parliament, the draft law that should have been considered in the spring session of 2020, but has been now postponed.

57 In this context, it should be recalled that, in line with Council of Europe recommendations, 'Member States should put in place a comprehensive legislative framework that enables journalists and other media actors to contribute to public debate effectively and without fear' (Recommendation CM/Rec(2016)4) of the Committee of Ministers of Council of Europe, para. I-2).

The transparency of the legislative process and the involvement of stakeholders are enshrined in law. The law provides that the timeliness of the public consultations and the publication of their results are mandatory, and requires the assessment of the comments and proposals received from the entities to whom the draft legal act was submitted[58]. It is also mandatory to conduct an assessment of the effect of envisaged legal regulation[59]. Although the Judicial Council and the Prosecution services are not vested with legislative initiative, their participation in the legislative process is ensured through consultation either during the drafting phase, or as experts in the relevant parliamentary commissions. The Bar Association may draft and submit to the Ministry of Justice legal acts on matters relating to the practice of lawyers, and must also be consulted when relevant[60]. Draft amendments to the Law on the Bar submitted in 2019 led the Council of Bars and Law Societies of Europe (CCBE) to warn of possible incompatibilities between the draft amendments and the principle of confidentiality of communication between lawyers and clients[61]. The draft amendments considered as raising concerns were not adopted.

The Government adopted measures in the context of the COVID-19 pandemic. An 'emergency situation' has been declared[62], which was followed by the declaration of a national quarantine and the activation of the 'full readiness level' of the civil protection system[63]. While the quarantine ceased on 17 June, the emergency situation regime is still in place.

The possibility of individual constitutional review was introduced in 2019. Following a constitutional revision, individuals also have the right to apply to the Constitutional Court, in addition to the President of the Republic, the Government, a group of one fifth of the Members of the Parliament and the courts[64]. The recognition of the right to individual constitutional review follows recommendations of the Constitutional Court[65]. The Constitutional review is limited to an *a posteriori* control of enacted laws[66].

Independent authorities are active in safeguarding fundamental rights. Independent authorities include the Parliament Ombudsman and the Equal Opportunities Ombudsman. The Parliament Ombudsman, accredited with 'A' status by the United Nations Global Alliance of National Human Rights Institutions (GANHRI) in 2017, recommends to the Parliament, state or municipal institutions and agencies to amend the laws or other statutory acts which restrict human rights and freedoms. Following an investigation, the Parliament Ombudsman drew the attention of the Minister of Justice to the need to ensure proper provision of the presumption of innocence in national law, in order to prevent suspects and accused persons from being shown at court or in public as

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58 Arts. 7 and 17(5) of the Law on Legislative Framework, 18 September 2012, No XI-2220. Any interested person can submit comments and proposals to the draft legal acts published on the legal acts information system of the Chancellor's office of Parliament.

59 Art. 8 of the Law on Legislative Framework. In certain cases, it is also mandatory to carry out an anti-corruption assessment of draft legal acts intended to regulate public relations (Art. 8 of the Law on the Prevention of Corruption).

60 Arts. 57 and 60(2) of the Law on the Bar, 18 March 2004, No IX-2066.

61 Letter of the President of the CCBE to the President of the Republic of Lithuania, of 11 December 2019.

62 Resolution No. 152 of the Government of the Republic of Lithuania of 26 February 2020 'On the Declaration of a National-Level Emergency Situation'.

63 Resolution No. 207 of the Government of the Republic of Lithuania of 14 March 2020 'On Announcement of Quarantine in the Territory of the Republic of Lithuania'.

64 Art. 106 of the Constitution.

65 Decision of the Constitutional Court of Lithuania of 28 June 2016, No. KT20-S10/2016.

66 Art. 107 of the Constitution.

guilty by publicly using means of physical restraint against them[67]. The Equal Opportunities Ombudsman has a mandate to investigate complaints and provide conclusions and recommendations on any issue related to discrimination as defined in the Law on Equal Opportunities and the Law on Equal Opportunities of Women and Men. The United Nations Committee on the Elimination of Discrimination against Women has recommended the scope of the Office of the Equal Opportunities Ombudsman to be expanded to facilitate access to justice for all women at the regional and local levels, in face of the absence of regional and local branches of the Office[68].

An extensive legal framework ensures the participation of civil society organisations in the decision-making process. The civil society space in Lithuania is considered to be open[69]. The National NGO Council, comprised of 10 representatives of national umbrella NGOs, ministries and the Association of Local Authorities in Lithuania, exercises functions as an advisory body, and municipalities also have a municipal NGO Councils and municipal Communities Councils which serve as advisory bodies to the local administrations. A new Law on Development of NGOs was adopted in 2019, which creates the legal basis for a National NGO fund, which is set to become a sustainable mechanism of strengthening institutional capacities of NGOs in 2020. The Parliament 'Group for development of civil society', allows civil society organisations to discuss legislative matters with members of Parliament.

[67] Parliament Ombudsperson, Communiqué (2020), Physical abuse may only be used by an officer when the person does not comply with the lawful instructions or requirements of the officer or otherwise opposes the officer; see also ENNHRI, The rule of law in the European Union – Reports from National Human Rights Institution. The order of the Minister of Justice of the Republic of Lithuania and the Minister of Interior of the Republic of Lithuania "Regarding Convoy Procedure Rules" was amended on 26 May 2020. Legal provisions no longer envisage the mandatory use of handcuffs or other means of physical restraint.

[68] European Union Agency for Fundamental Rights (2020), Submission to the European Commission in the context of the preparation of the first annual Rule of Law Report.

[69] Rating by CIVICUS; ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed and closed.

Annex I: List of sources in alphabetical order.[*]

[*] *The list of contributions received in the context of the consultation for the 2020 Rule of Law report can be found at (COM website).*

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Virtual country visit to Lithuania in the context of the 2020 Rule of Law Report.

Annex II: Country visit to Lithuania

The Commission services held virtual meetings in May and June 2020 with:

- Bar Association
- Freedom House
- Media Authority – Radio and Television Commission of Lithuania
- Ministry of Foreign Affairs
- Ministry of Justice
- National Courts Administration
- National NGO Coalition
- Office of the Prosecutor General
- Special Investigation Service
- Supreme Court
- Transparency International Lithuania

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

- Amnesty International
- Civil Liberties Union for Europe
- Civil Society Europe
- Conference of European Churches
- EuroCommerce
- European Center for Not-for-Profit Law
- European Centre for Press and Media Freedom
- European Civic Forum
- Free Press Unlimited
- Front Line Defenders
- ILGA-Europe
- International Commission of Jurists
- International Federation for Human Rights
- International Press Institute
- Lifelong learning Platform
- Open Society Justice Initiative/Open Society European Policy Institute
- Reporters without Borders
- Transparency International EU