



Brussels, 20.7.2021
SWD(2021) 717 final

COMMISSION STAFF WORKING DOCUMENT

**2021 Rule of Law Report
Country Chapter on the rule of law situation in Lithuania**

Accompanying the

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**2021 Rule of Law Report
The rule of law situation in the European Union**

{COM(2021) 700 final} - {SWD(2021) 701 final} - {SWD(2021) 702 final} -
{SWD(2021) 703 final} - {SWD(2021) 704 final} - {SWD(2021) 705 final} -
{SWD(2021) 706 final} - {SWD(2021) 707 final} - {SWD(2021) 708 final} -
{SWD(2021) 709 final} - {SWD(2021) 710 final} - {SWD(2021) 711 final} -
{SWD(2021) 712 final} - {SWD(2021) 713 final} - {SWD(2021) 714 final} -
{SWD(2021) 715 final} - {SWD(2021) 716 final} - {SWD(2021) 718 final} -
{SWD(2021) 719 final} - {SWD(2021) 720 final} - {SWD(2021) 721 final} -
{SWD(2021) 722 final} - {SWD(2021) 723 final} - {SWD(2021) 724 final} -
{SWD(2021) 725 final} - {SWD(2021) 726 final} - {SWD(2021) 727 final}

ABSTRACT

The Lithuanian justice system continues to present good results in terms of efficiency, and further measures to improve this are being implemented. Digital tools are widely used in the justice system, which has contributed to ensuring the continued functioning of courts during the COVID-19 pandemic. Appointments to high judicial positions remain subject to delays. While appointments to the Constitutional Court have resumed, the president of the Supreme Court remains in function *ad interim* since September 2019. Initiatives to strengthen anti-corruption culture in the judiciary are being developed by the National Courts Administration and the Judicial Council. Amendments to the legal aid system are being discussed, responding to long-standing concerns of lawyers.

On 4 November 2020, the new anti-corruption action plan 2020-2022 was adopted with the aim of improving the implementation of the National Anti-Corruption Programme. Asset disclosure now has a more efficient and effective regulation and updated rules on lobbying activities aiming at ensuring more transparency and publicity of meetings between elected officials and lobbyists are in force since January 2021. The implementation of the revised legal framework on revolving doors and cooling off periods has started after their approval in July 2020. Whistleblowers protection provisions are in place and the prosecution office is raising awareness to promote the use of reporting channels. Several high-level corruption cases were investigated or brought to court. The public procurement legal framework has been improved to prevent frauds and corruption risks in the context of the COVID-19 pandemic. Furthermore, recommendations and guidance for improving transparency and reducing corruption risks in the implementation of the COVID-19 economic relief plan were issued by the Special Investigations Service.

The legal framework for media pluralism in Lithuania guarantees the basic right of freedom of expression and the right to information. While the media regulators continue to be considered independent and effective, a debate about the effectiveness and impartiality of media self-regulatory bodies has taken place. To strengthen media ownership transparency, the Ministry of Culture is putting in place a publicly available Information System of Producers and Disseminators of Public Information. The professional environment for journalists is gradually improving in Lithuania, especially as regards access to information held in the main public registers. Nevertheless, it appears that authorities sometimes invoke data protection in order to unduly limit access to information. Lithuanian authorities have taken several measures to alleviate the impact of the COVID-19 pandemic on media outlets.

A project aimed at improving the quality of law-making is under preparation, which will include the revision of existing legislation, in order to eliminate outdated or disproportionate regulation. Lithuania adopted emergency measures in the context of the COVID-19 pandemic, which are still in place. While the activity of Lithuanian NGOs was impacted by the COVID-19-related restrictions, the authorities have provided specific financial support to NGOs. Civil society space remains open, and a new NGO foundation has been created to provide sustainable institutional support for NGOs. The Lithuanian authorities are developing initiatives to improve legal education, and there are plans to integrate legal and anti-corruption education in general education programmes.

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*), 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 judges¹. 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 adjudicates on the constitutionality of legislation and of the acts of the President and the Government². Prosecutors are independent; the Prosecutor General is appointed and dismissed by the President of the Republic upon the assent of the Parliament³. Lower-ranked prosecutors are appointed by the Prosecutor General, on the recommendation of a Selection Commission⁴. Lithuania participates in the European Public Prosecutor's Office. The Bar 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 remains average to high among the general public and companies. In 2021, the level of perceived judicial independence among the general public has further improved for the third consecutive year, and remains average (55% rated their perception as 'fairly good' or 'very good', an increase of 3 percentage points in relation to 2020)⁵. Among companies, the level of perceived judicial independence remains generally high although in 2021 it decreased, countering the steady increase registered in previous years (60% perceive it as 'fairly good' or 'very good', a decrease of 6 percentage points in relation to 2020)⁶.

The competences of the Judicial Council have been strengthened, and its composition has been amended. Since November 2020, the Judicial Council consists of 17 members (previously 23)⁷. Amendments to the Law on Courts also determined that judges may be elected to the Judicial Council for a maximum of two consecutive terms⁸. The Judicial

¹ Law on Courts, Art. 119.

² 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.

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

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

⁵ Figure 47, 2021 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%).

⁶ Figure 49, 2021 EU Justice Scoreboard.

⁷ The number of judges elected by the General Assembly of judges was also revised. The seniority requirements for a candidate to the Judicial Council was reduced, requiring a minimum period of service to enter the Judicial Council of 3 years (previously 5).

⁸ Law on Courts, Art. 119.

Council continues to be entirely composed of judges appointed by their peers, which is consistent with Council of Europe recommendations⁹. The term of office of the judges who will no longer be members has not been subject to early termination, as the new rules came into force after the end of their regular term of office. As noted in the 2020 Rule of Law Report¹⁰, the Judicial Council now has the competence to select the judges-members of the Selection Committee of Candidates to Judicial Office, which, until 2020, was an exclusive competence of the President¹¹. For the first time, the Judicial Council appointed three judges as members of this Committee. The Judicial Council has also become one of the participants to the independent state strategic management system, established in the Law of the Republic of Lithuania on Strategic Management, which entered into force on 1 January 2021¹². In this context, the Judicial Council is being actively involved in the preparation of the 2021–2030 National Progress Programme.

After a period of standstill, three new judges have been appointed to the Constitutional Court. After the term of office of three Constitutional Court judges, including the President, came to an end in March 2020¹³, the Parliament¹⁴ rejected the three proposed candidates for the vacancies¹⁵, leading to a substantial period during which the three judges remained in function *ad interim*. Following doubts raised by political parties as to the lawfulness of the continuation in function of the three judges, the Constitutional Court clarified that the solution was in line with the provisions of the Law on the Constitutional Court and stressed that the Constitutional Court must function without interruption¹⁶. According to the law¹⁷, in case a new judge is not appointed, the judge whose term of office has expired shall act until the new judge is appointed. This legal solution appears to be consistent with Venice Commission recommendations¹⁸. The Parliament¹⁹ resumed the procedure for the renovation of the Constitutional Court in January 2021. This has enabled the appointment of the three judges²⁰. On 17 June 2021, Parliament appointed a new President of the Constitutional Court.

The President of the Supreme Court remains in function *ad interim*. The appointment of a new President of the Supreme Court is pending since September 2019. Following the Constitutional Court's ruling that the dismissal of the chairperson of the civil chamber of the Supreme Court was unconstitutional²¹, the judge was reinstated in her respective functions as judge of the Supreme Court, including as chairperson of the civil chamber and acting president of the Court²². While this ensures the functioning of the Supreme Court, it is

⁹ Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe, paras. 26-27.

¹⁰ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 4.

¹¹ Law on Courts, Article 55⁽¹⁾. The new provision came into force on 1 January 2020.

¹² See also 2020 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 4.

¹³ There are a total of nine Constitutional Court judges, and they are appointed for a single nine-year term. Pursuant to the Lithuanian Constitution, a third of the Constitutional Court justices are replaced every three years.

¹⁴ Legislature 2016-2020.

¹⁵ Constitutional Court justices are appointed and dismissed by Parliament.

¹⁶ Statement by the Constitutional Court of 16 June 2020.

¹⁷ Law on Constitutional Court, Art. 4.

¹⁸ Venice Commission Opinion (CDL-AD(2014)033), para. 20.

¹⁹ Legislature 2020-2024.

²⁰ As stressed by the Venice Commission, while it is important to provide for anti-deadlock mechanisms, such as continuation in function *ad interim*, in order to ensure the functioning of state institutions, these mechanisms should not act as a disincentive to reaching an agreement (Venice Commission Opinion (CDL-AD(2013)028), paras. 5-8).

²¹ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 4.

²² Constitutional Court, judgment of 2 September 2020, Decision No. KT153-N13/2020.

important to proceed with the appointment procedure²³. However, further delays are expected, as according to the Law on Courts, the procedure for the appointment of the President of the Supreme Court can only take place once the full composition of the Supreme Court is ensured²⁴, and one judicial position in the Supreme Court remains vacant due to delays in the selection procedure.

The National Courts Administration and the Judicial Council are taking initiatives to strengthen the anti-corruption environment in the judiciary. Strengthening the anti-corruption culture in the justice system is one of the five priorities included in the National Courts Administration (NCA) programme for the period 2020-2022. In this context, the NCA, in cooperation with the Judicial Council, is organising seminars on professional ethics, and developing measures to strengthen the control of private interest declarations. The Judicial Council has also set up an inter-institutional working group, which includes a representative of the Special Investigation Service, to strengthen the anti-corruption environment in the judiciary²⁵. These efforts address concerns regarding the negative impact on the image of the justice system raised by the suspicion of members of the judiciary being involved in corruption cases, in the context of criminal cases that remain pending since 2019²⁶. These suspicions already led to the dismissal of five judges, and the suspension of three judges.

The Bar Association has raised concerns regarding the respect for professional secrecy. Under the provisions of the Law on Criminal Intelligence, law enforcement authorities may perform covert actions of information collection that, according to the Bar Association, may amount to controlling communication between lawyers and their clients²⁷, even in the absence of criminal charges²⁸. The Bar Association had requested from State authorities information regarding the existence of criminal intelligence actions, outside of any criminal investigation, against members of the Bar, which was refused²⁹. The refusal was challenged before national courts. The Bar Association's appeal was dismissed in a final decision. The Bar Association has brought an application before the European Court of Human Rights³⁰. On 9 December 2020, the European Court of Human Rights informed the Lithuanian Government of the admissibility of the case. The Bar Association also challenged the legal regulation on criminal investigation activities before the Vilnius Regional Administrative Court. Following its decision, the Bar Association appealed to the Supreme Administrative Court of Lithuania. The judicial proceedings before the Supreme Administrative Court of Lithuania are pending.

²³ See footnote 20.

²⁴ The President of the Supreme Court is appointed by Parliament, upon a proposal from the President of the Republic from among the judges appointed at the Court.

²⁵ Contribution from the European Network of Councils for the Judiciary (ENCJ) for the 2021 Rule of Law Report, p. 25.

²⁶ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 3.

²⁷ According to Lithuanian law, lawyers benefit from privileges protecting professional secrecy. These include, among others, the prohibition to examine, inspect, or take the lawyer's documents or files pertaining to professional activities, and to control information transmitted over telecommunications networks and other communications, except where the lawyer is suspected or accused of a criminal act.

²⁸ Contribution from the Council of Bars and Law Societies of Europe (CCBE) for the 2021 Rule of Law Report, p. 3.

²⁹ The initial request was made in April 2019.

³⁰ Application No. 64301/19, *Lietuvos Advokatura and Others v. Lithuania*.

Quality

The selection procedures for the judiciary have resumed, after slight delays caused by the COVID-19 pandemic. Due to the COVID-19 pandemic and inherent limitations imposed by the quarantine regime declared, the number of selection procedures for the judiciary was lower than in 2019³¹. The selection panel meetings have resumed according to the usual schedule, following the adaptation of procedural rules to the use of videoconference equipment. According to the NCA, in 2021 a larger number of selection procedures is planned in order to compensate the decrease registered in 2020, and ensure the assignment to vacant positions³².

The Judicial Council has initiated discussions regarding the funding model of the judiciary. In the context of the negotiations on state budget formation, the Judicial Council has raised concerns regarding to the allocation of funds to the judiciary and the criteria thereto. The Judicial Council has initiated a research of national and international practices, in order to establish objective and transparent criteria for the allocation of funds.

Changes to the legal aid system are being discussed. The Programme of the 18th Government of the Republic of Lithuania includes a project aimed at reducing the workload of lawyers who provide legal aid, and tackling the problem of inadequate remuneration for the legal aid services, including provision for proportional remuneration depending on the complexity of the legal services provided, and transparency of the payment procedure³³. These changes would respond to longstanding concerns voiced by the Bar Association³⁴, and are in line with the Council of Bars and Law Societies of Europe (CCBE) recommendations and Council of Europe Guidelines³⁵. The project, expected to be implemented during the current 2020-2024 legislature, is however at a very early stage, and its rollout will be preceded by a feasibility study.

The use of digital tools in the justice system is widespread. Lithuania's procedural rules allow the use of digital technology in courts in civil, commercial, administrative and criminal cases in a wide range of situations, both regarding the participation of parties using communication technology, and the admissibility of evidence³⁶. Lithuanian courts appear also well equipped with electronic communication tools³⁷. Digital solutions to initiate and follow proceedings are broadly in place for civil, commercial and administrative cases³⁸, but are less used for criminal cases³⁹. The widespread use of digital tools has contributed to ensuring the continued functioning of the courts during the COVID-19 pandemic. Despite the improvement in the available video conferencing equipment, stakeholders highlight the need to significantly upgrade computer equipment of the court system and other resources relevant to the digitisation of justice⁴⁰. Further measures to modernise the work of the courts, in

³¹ Input from Lithuania for the 2021 Rule of Law Report, p. 1.

³² Information received in the context of the country visit to Lithuania.

³³ Input from Lithuania for the 2021 Rule of Law Report, p. 6.

³⁴ Information received in the context of the country visit to Lithuania.

³⁵ CCBE (2018), Recommendations on legal aid, para. III.1; 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, paras. 22 and 23.

³⁶ Figure 39, 2021 EU Justice Scoreboard.

³⁷ Figure 41, 2021 EU Justice Scoreboard.

³⁸ Figure 43, 2021 EU Justice Scoreboard.

³⁹ Figure 44, 2021 EU Justice Scoreboard.

⁴⁰ Contribution from ENCJ for the 2021 Rule of Law Report, pp. 25-26.

particular to ensure the use of communication technologies for the organisation of remote hearings in all procedures and reinforce the access of public to case-law, are also envisaged⁴¹.

Efficiency

The justice system continues to present good results in terms of efficiency⁴². Lithuania maintains its short disposition time in civil and commercial cases in first and second instance, while registering an increase in third instance⁴³. The disposition time in administrative cases has also decreased, both in first and second instance⁴⁴. The trend of reduction of the already comparatively low backlogs has continued, in all the categories of cases considered⁴⁵.

The implementation of the project “Increasing the Efficiency of Judicial Activities” is ongoing. The project aims at increasing the efficiency of court activities, through the development of advanced management models of court resources and case allocation, and the modernisation of case management⁴⁶. The implementation of the project, which started in 2017, was expected to end in September 2021, but has suffered delays due to the COVID-19 pandemic. New legislative measures to further improve efficiency are also envisaged in the Programme of the 18th Government of the Republic of Lithuania, in particular to promote out-of-court dispute resolution, and to transfer non-judicial functions currently performed by courts to other institutions⁴⁷. Lithuania is also active in promoting and granting incentives for the use of alternative dispute resolution methods⁴⁸.

II. ANTI-CORRUPTION FRAMEWORK

The Ministry of Justice and the Special Investigation Service coordinates the anti-corruption preventive measures and the Chief Official Ethics Commission of the Republic of Lithuania supervises the institutional ethics standards. The STT is also tasked with preparing and implementing certain anti-corruption preventive measures. The competence to fight corruption is shared between several authorities. The STT has competences to detect and investigate the most serious corruption-related criminal offenses⁴⁹. The Prosecution Service conducts and coordinates pre-trial investigations. In the framework of the National Anti-Corruption Programme 2015-2025, on 4 November 2020, a new Action Plan for 2020-2022 was approved by Parliament.

The perception among experts and business executives is that the level of corruption in the public sector remains relatively low. In the 2020 Corruption Perceptions Index by

⁴¹ Input from Lithuania for the 2021 Rule of Law Report, p. 7.

⁴² 2020 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania, p. 5.

⁴³ Figures 6 and 7, 2021 EU Justice Scoreboard.

⁴⁴ Figures 8 and 9, 2021 EU Justice Scoreboard.

⁴⁵ Figures 13, 14 and 15, 2021 EU Justice Scoreboard.

⁴⁶ Input from Lithuania for the 2021 Rule of Law Report, p. 10.

⁴⁷ Input from Lithuania for the 2021 Rule of Law Report, p. 11.

⁴⁸ Figure 26, 2021 EU Justice Scoreboard.

⁴⁹ 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.

Transparency International, Lithuania scores 60/100 and ranks 11th in the European Union and 35th globally⁵⁰. This perception has been relatively stable⁵¹ over the past five years⁵².

The investigation and prosecution of corruption has continued as regards a number of high-level corruption cases. In 2020, the STT started 69 pre-trial investigations, with 35 cases sent to Court⁵³. 60 corruption related cases ended with a fine and 5 cases with an imprisonment sanction, while 2 cases ended with both imprisonment and fine⁵⁴. Additionally, 6 high-level corruption cases were investigated or brought to Court. One of them, started in 2016, involved a Member of Parliament and had been suspended when Parliament did not grant the Prosecutor Office's request to waive the immunity of the Member. Following general elections, in December 2020, the Parliament authorised the Prosecutor's Office to continue the investigation, which has resumed and the case has been brought to Court recently⁵⁵. The legislative framework to tackle foreign bribery is adequate⁵⁶ while implementation of international recommendations on the need to raise awareness on this issue needs further improvement⁵⁷. In this context, human and financial resources available to law enforcement are considered sufficient to perform the tasks but authorities point to the need to increase the number of law enforcement officials⁵⁸.

A new action plan to accompany the National Anti-Corruption Programme was adopted. The anti-corruption strategic framework is laid down in the National Anti-Corruption Programme 2015-2025⁵⁹ and it is implemented and coordinated by the Government with the support of the Special Investigations Service (STT). The programme takes a comprehensive approach to corruption focusing on both the public and the private sector. However, as highlighted by the STT in its latest evaluation, building an environment resilient to corruption risks in all public administration bodies needs a more systematic approach and some measures remain to be implemented⁶⁰. The Action Plan for 2020-2022 adopted by Parliament in November 2020 seeks to improve the implementation of the programme. The actions planned include improving the Central Electoral Commission information system, revising lobbying rules, strengthening law enforcement capacity to detect corruption cases including via training and preventive action and strengthening the whistleblower protection mechanism. The plan envisages setting up a new system for

⁵⁰ Transparency International, Corruption Perceptions Index 2020 (2021), pp. 2-3. The level of perceived corruption is categorised as follows: low (the perception among experts and business executives of public sector corruption scores above 79); relatively low (scores between 79-60), relatively high (scores between 59-50), high (scores below 50).

⁵¹ In 2015 the score was 59, while, in 2020, the score is 60. 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.

⁵² The Eurobarometer data on corruption perception and experience of citizens and businesses as reported last year is updated every second year. The latest data set is the Special Eurobarometer 502 (2020) and the Flash Eurobarometer 482 (2019).

⁵³ According to the Input from Lithuania for the 2021 Rule of Law Report, 27 cases were dismissed.

⁵⁴ The STT started 52 pre-trial investigations in 2018 while 47 started in 2019. Statistics included in the Input from Lithuania for the 2021 Rule of Law Report.

⁵⁵ Press release by the Special Investigation Service of 13 May 2021 - <https://www.stt.lt/en/news/7481/in-the-court-a-criminal-case-of-petras-grazulis-a-member-of-the-seimas:3136>.

⁵⁶ Exporting corruption. Progress report 2020: Assessing enforcement of the OECD Anti-Bribery Convention p. 83.

⁵⁷ Implementing the OECD Anti-Bribery Convention, Phase 2 two-year follow-up report: Lithuania.

⁵⁸ Information received in the context of the Country visit.

⁵⁹ National Anti-Corruption Program 2015-2025.

⁶⁰ Progress report of National Anti-corruption Program 2015-2025, Special Investigation Service, 2020.

monitoring and assessing corruption in the public sector and improving corruption awareness⁶¹. The Special Commission of the Government of the Republic of Lithuania has the task of monitoring, controlling and coordinating the fight against corruption⁶², while the STT plays a key role in monitoring the results of the plan⁶³. Lithuania plans to draft and adopt a new National Anticorruption Agenda (2022-2033) in 2021, replacing the current National Anti-Corruption Programme⁶⁴. Finally, in December 2020 the President of the Republic inaugurated the new Integrity Academy. The main objective of the newly established Academy is to bring together experts and institutions to exchange best practices in the prevention of corruption and to provide specialised anti-corruption training. In the first months of activity, the Academy organised several training sessions for public servants.

Public procurement legislation has been modified to prevent fraud and corruption risks under the COVID-19 pandemic. The public procurement legislation was adapted to respond to potential corruption issues in the context of the COVID-19 pandemic. The new amendment entered into force in July 2020 and aims at preventing the participation to public procurement of doubtful suppliers trying to profit from the emergency situation⁶⁵. A specific reference is made for international procurement using unannounced negotiated procedures where the contracting authorities should consult with several other national authorities, including the STT, in order to acquire as much information as possible on the supplier⁶⁶. After the adoption of the National Action Plan 2020-2022, a new amendment has been presented to the Parliament with the aim of pursuing the centralisation of public procurement procedures⁶⁷.

The asset declaration framework for elected officials now has a more efficient and effective regulation. A new amendment to the Law of Public and Private Interests in the Public Service for elected and appointed persons was adopted in July 2020⁶⁸. It aims at simplifying the process for declarations of interest and specifies all the necessary details needed to log the declaration which must be done by the elected members in the 30 days following their election. The Chief Official Ethics Commission is responsible for checking the declarations, which are also made public⁶⁹. On 4 January 2021, the new Register of Private Interests (PINREG) became operational⁷⁰.

Updated rules on lobbying aim at ensuring more transparency and publicity for meetings between officials and lobbyists. The new amended law on lobbying entered into

⁶¹ Input from Lithuania for the 2021 Rule of Law Report.

⁶² *Ibid.*, point 5.

⁶³ *Ibid.*, point 7.

⁶⁴ To this end, the Special Investigation Service will receive support in drafting a new anticorruption strategy, an action plan for its implementation and monitoring and reporting tools to ensure effective implementation and coordination, as well as support on the development of an awareness raising campaign on the strategy. This project is receiving support through the European Commission's Technical Support Instrument.

⁶⁵ The amended public procurement Law.

⁶⁶ Art. 72, par. 4, provides the list of information that must be provided and sets a time limit of three days to react.

⁶⁷ The new amendment to the Public Procurement Law.

⁶⁸ The amendment to the Law of Public and Private Interests in the Public Service also changed the name of the Law which is now Law on the Adjustment of Public and Private Interests.

⁶⁹ *Ibid.*, Art. 22.

⁷⁰ The aim of this new IT solution is to improve the quality of interest declaration by connecting more than 10 national authorities. The declaration will be automatically filled with information stored in national registers and information systems and the individual will receive an email reminder for completing the declaration. COEC 2020 annual report.

force in January 2021⁷¹ and foresees a cross declaration scheme where lobbyists, politicians and public servants must report their meetings in the Register of Lobbyists maintained by the Chief Official Ethics Commission (COEC). According to latest COEC annual report, at the end of 2020, 122 individuals were registered as lobbyists⁷² and 273 meetings were registered compared to 209 registered in 2019⁷³. The STT has provided the Parliament with its evaluation and recommendations to strengthen the proposed framework⁷⁴.

The implementation of the revolving doors and cooling-off provisions of July 2020 has started. Revolving doors and cooling off period are regulated in the Law on the Adjustment of Public and Private Interests⁷⁵, which establishes a one year cooling-off period⁷⁶. Additionally, COEC has the power to derogate from the general rule on a case-by-case basis⁷⁷. Since the entry into force of the amendment to the Law in July 2020, COEC has received four requests for derogation. In one case COEC did not take a decision as information from the applicant was missing, while in the other two cases the requests were refused and in one case the request for derogation was approved⁷⁸.

While whistleblowers protection regulation is in place, awareness is lacking among citizens. In 2020, 49 persons were recognised as whistleblowers by the Office of the Prosecutor General⁷⁹. A dedicated hotline was set up in August 2020 within the Office of the Prosecutors and in four months of activities dealt with 198 consultations⁸⁰. On the basis of the information provided through this channel, 16 pre-trial investigations started and 11 internal audits were carried out⁸¹. The main reported misconducts relate to abuse of powers, failure to perform official duties, corruption in public procurement, but also violation of COVID-19 related measures⁸². In order to promote the use of the hotline and to support other authorities in establishing their own reporting channels, the Office of the Prosecutor General is organising awareness training for public and private entities⁸³.

Recommendations and guidance for improving transparency and reducing corruption risks in the implementation of the COVID-19 economic relief plan were issued. After the COVID-19 outbreak, the Government approved a EUR 5 billion plan to support the economy and limit the spread of the pandemic. The implementation of the support plan has been monitored by the STT. In this context, the STT issued a number of recommendations and documents aimed at ensuring transparency and reducing corruption risks⁸⁴. A single online

⁷¹ The Law on Lobbying Activities.

⁷² Data from the COEC 2020 annual report which includes the figures from 2019.

⁷³ COEC 2020 annual report.

⁷⁴ STT contribution to the Law on lobbying.

⁷⁵ The Law on the Adjustment of Public and Private Interests, latest amendment entered into force in July 2020.

⁷⁶ Art. 15 and 17 of the Law of Public and Private Interests in the Public Service.

⁷⁷ Art. 18, *idem*.

⁷⁸ COEC 2020 annual report p. 20.

⁷⁹ According to statistics provided in writing by the Office of the Prosecutor General, 86 decisions were taken, 49 people were recognized as whistleblowers while 37 people were not.

⁸⁰ Input from Lithuania for the 2021 Rule of Law Report, p. 13.

⁸¹ *Ibid.*

⁸² *Ibid.*

⁸³ Information received in writing by the Office of the Prosecutor General.

⁸⁴ Input from Lithuania for the 2021 Rule of Law Report. One of them was a booklet on transparency, published in April 2020, dedicated to state authorities working on the implementation of the Action Plan 2020-2022. The STT also took measures to mitigate the risk of corruption at both central and local level.

platform to disclose information about the implementation of the COVID-19 plan was proposed by the STT but has not been implemented⁸⁵. Nevertheless, the authorities⁸⁶ considered the amount of information published by relevant institutions to be sufficient to correctly inform the citizens⁸⁷. STT has assessed several legal measures adopted to limit the impact⁸⁸.

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 freedom of speech and freedom of information. The Law on the Provision of Information to the Public is the main media law. Legislation to transpose the Audiovisual Media Services Directive has been adopted⁸⁹. 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 Association⁹⁰.

There have been no significant changes in the legal framework concerning the regulator for audio-visual media services. Financial and human resources of the LRTK have remained stable and are considered adequate, especially since its budget is funded by fees collected from the market players⁹¹. The LRTK has proposed to the Parliament to extend the duration of the mandate of its members from four to five years and to change its name into “National Media Commission”⁹². The Media Pluralism Monitor (MPM 2021) reports a very low risk for the independence and effectiveness of the media authority⁹³.

A debate about the effectiveness and impartiality of media self-regulatory bodies is under way. Lithuania’s public broadcaster “Lietuvos nacionalinis radijas ir televizija” (LRT) proposed an amendment to the Law on the Provision of Information to the Public to have it excluded from the supervision by the Public Information Ethics Commission, a decision-making body of the Public Information Ethics Association, due to the introduction of the ethics controller function in the LRT itself. This led to public discussions about the effectiveness and impartiality of the Public Information Ethics Commission, the composition

⁸⁵ Input from Lithuania for the 2021 Rule of Law Report, p. 16

⁸⁶ Information received by the STT in the context of the country visit to Lithuania.

⁸⁷ *Ibid.*

⁸⁸ The main assessments are: 2021-01-15 Conclusion of the anti-corruption assessment regarding the vaccination procedures against COVID-19 No. 4-01-295; conclusion of the anti-corruption assessment “On the draft regulation of the measure “Business Support Fund” due to Covid-19” (23/07/2020, No. 4-01-5781); Conclusion of the anti-corruption assessment “Regarding Priority 3 of the European Union Funds Investment Operational Program for 2014–2020 “Promotion of Small and Medium Business Competitiveness”, Measure No. 03.3.1-LVPA-T-859 “Regulation of financing conditions for COVID-19 products LT” projects” (2020-11-18, Nr. 4-01-9466).

⁸⁹ Complete transposition of the AVMSD was notified to the Commission on 27 January 2021.

⁹⁰ Lithuania ranks 28th in the Reporters Without Borders 2021 World Press Freedom Index (14th among the EU Member States), the same position as last year, but several places higher compared to five years ago. See <https://rsf.org/en/lithuania>.

⁹¹ Information received in the context of the country visit.

⁹² Input from Lithuania for the 2021 Rule of Law Report, p. 22.

⁹³ 2021 Media Pluralism Monitor, country report for Lithuania, p. 10.

of the Public Information Ethics Association⁹⁴ and the extent to which the functioning of self-regulation should be prescribed by law⁹⁵.

To enhance media ownership transparency, the Ministry of Culture is putting in place a publicly available Information System of Producers and Disseminators of Public Information, in line with the Law on the Provision of Information to the Public and Strategic Directions of the Public Information Policy 2019 – 2022⁹⁶. The system, called “VIRSIS”, will disclose data on media owners, including ultimate beneficial owners, and, progressively, amounts of advertising income obtained from the public bodies. In order to ensure that the information in VIRSIS is up-to-date, it will be synchronised with other state information systems and registers and it will incorporate relevant real-time data. The system will be launched in the course of 2021⁹⁷. According to the MPM 2021, media ownership transparency is at medium risk⁹⁸. News media concentration is high, in particular since a small number of companies own the majority of news media outlets across different sectors⁹⁹.

Lithuanian authorities have taken several measures to alleviate the impact of the COVID-19 pandemic on media outlets. The pandemic led to a drop in advertising revenue of media outlets, with two local newspapers having to terminate activity. Private media reduced the number of investigative projects. The media-specific support measures put in place by Lithuanian authorities included covering the costs of postal delivery, deferring the costs of television and radio transmission facilities and services and ensuring that journalists could travel across the country when the travel restrictions were in place. Various Government departments also bought media space for public information campaigns on the COVID-19 pandemic¹⁰⁰. The Government is planning a comprehensive review of its media policy in 2022. Follow-up measures will include a sustainable media funding model by 2023 and enhancing media literacy by 2024¹⁰¹¹⁰².

The framework for access to information is gradually improving in Lithuania. According to amendments to the Law on the Provision of Information to the Public that entered into force on 1 July 2021, journalists are entitled to have free access to information held by the real estate register and the registers of businesses and organisations. Some stakeholders claim that the access to information procedures are still quite burdensome. In particular, some public bodies, especially municipalities, have invoked data protection rules to unduly restrict access to information¹⁰³.

⁹⁴ Input from Lithuania for the 2021 Rule of Law Report, p. 22.

⁹⁵ According to the MPM 2021, editorial autonomy is at high risk, since the law does not provide regulatory safeguards to guarantee editorial autonomy, and self-regulatory measures often are not implemented effectively. See 2021 Media Pluralism Monitor, country report for Lithuania, p. 14.

⁹⁶ The 2020 Rule of Law report pointed to concerns about the availability of information on media ownership, as in practice public information on media ownership was often limited or outdated

⁹⁷ Input from Lithuania for the 2021 Rule of Law Report, p. 23.

⁹⁸ 2021 Media Pluralism Monitor, country report for Lithuania, p. 11.

⁹⁹ 2021 Media Pluralism Monitor, country report for Lithuania, p. 12.

¹⁰⁰ Information received in the context of the country visit.

¹⁰¹ Input from Lithuania for the 2021 Rule of Law Report, p. 23.

¹⁰² Programme of the eighteenth Government of the Republic of Lithuania.

¹⁰³ Information received in the context of the country visit. In a recent case between the journalists’ union and the Ministry of Health, the court ruled that the Ministry could not invoke the data protection rules to restrict access to information.

The professional environment for journalists continues to be safe. Since the 2020 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 journalists¹⁰⁴, or the Mapping Media Freedom platform¹⁰⁵. The programme of the new Government commits to strengthen the framework for protection of journalists against persecution for critical journalism¹⁰⁶.

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. The Parliament, the President, the Government, and a group of at least 50.000 citizens have the right of legislative initiative. The Parliamentary Ombudspersons are tasked with protecting and promoting human rights and freedoms.

A project aimed at improving the quality of law-making is under preparation. The Ministry of Justice plans to carry out an analysis in order to identify shortcomings in the legislative process and the application of law, and to prepare methodological recommendations for institutions to improve the quality of legislation and the legislative process¹⁰⁷. The project envisages initiatives related to assessment of the impact of legal regulation, inclusive public consultation, *ex-post* evaluation of the impact of existing legislation, and deregulation and de-bureaucratisation. The latter initiatives, in particular, will include reviewing existing legislation and developing methodological guidance on systematic revisions, in order to eliminate outdated or disproportionate regulation, reduce administrative and regulatory burdens, and systematise regulatory provisions and related regulations.

Emergency measures declared in the context of the COVID-19 pandemic remain in place. While the state of emergency, as provided for under the Constitution and specified in the Law on the State of Emergency, was not declared, the executive declared a nationwide situation of emergency, pursuant to the Law on Civil Protection, and introduced a nationwide quarantine, under the Law on Prevention and Control of Communicable Diseases in Humans. The declaration of these regimes is a prerogative of the Government¹⁰⁸, and does not require the authorisation of Parliament. During the periods of quarantine, the work of Parliament was not suspended, although some sessions were adjourned. Since January 2021, amendments to the Statute of the Parliament allow for the sittings to take place remotely. One judicial complaint against the quarantine measures contesting the competence of the executive to declare such measures was dismissed by a first instance court¹⁰⁹. Although several appeals against quarantine measures were presented before the Constitutional Court, none of these were found admissible. In November 2020, the two Parliamentary Ombudspersons¹¹⁰ presented a report assessing the compliance with fundamental rights and freedoms of

¹⁰⁴ Council of Europe, Platform to promote the protection of journalism and safety of journalists, Lithuania.

¹⁰⁵ Mapping Media Freedom, Lithuania country profile.

¹⁰⁶ Input from Lithuania for the 2021 Rule of Law Report, p. 23.

¹⁰⁷ Input from Lithuania for the 2021 Rule of Law Report, p. 24. The project has been included in the Programme of Government, presented on 11 December 2020.

¹⁰⁸ Parliament is competent to declare the regime of public emergency, which provides for further-reaching restrictions.

¹⁰⁹ At the time of writing, the decision is not yet final.

¹¹⁰ There are two Parliamentary Ombudspersons, respectively in charge of the investigation of complaints regarding activities of officials of state institutions and agencies, and in charge of the investigation of complaints regarding activities of officials of municipal institutions and agencies.

emergency measures introduced in March 2020. In this report, concerns were raised regarding measures of forced isolation of persons returning from abroad, and respect for the right to affordable health care and the provision of the highest standard of health protection during the quarantine period.

The new law on development of non-governmental organisations (NGOs) came into force in 2020. The new law stipulates that information on legal entities which qualify as NGOs, in accordance with the definition provided by Law, shall be collected in the Register of Legal Entities and made publicly available¹¹¹. This information will serve as a base for collecting data on NGOs, which will be used in government informed policymaking. The new law also created the NGO foundation, which aims to provide sustainable institutional support for NGOs. The civil society space in Lithuania is considered to be open¹¹², and although the work of civil society organisations was impacted by the COVID-19-related emergency measures applied in the country, the Lithuanian authorities provided financial support¹¹³, which allowed NGOs to pursue their activities. This was the first time such subsidy measures were implemented for NGOs, as previously such measures were only available to businesses.

Several initiatives to improve legal education are being developed. To foster the knowledge of constitutional rights, the Ministry of Justice organises a yearly general campaign for the assessment of legal knowledge, open to all citizens without a legal academic background. In 2020, the content of the examination tested the knowledge of the Constitution, based on practical situations. Additionally, a mobile application-game, “I know my rights”, was launched in October 2020, which aims at fostering knowledge on legal topics, including activities of notaries and bailiffs, criminal and administrative liability, and the Constitution. The Government also intends to integrate legal education and anti-corruption education in general education programmes¹¹⁴.

¹¹¹ Law No XIII-2626, of 5 December 2019.

¹¹² Rating given by CIVICUS, Lithuania; ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed and closed.

¹¹³ On 3 June 2020 the Ministry of Social Security and Labour introduced a EUR 2 million subsidy measure for NGOs, which allowed up to EUR 5 000 subsidy per NGO and it was later increased up to EUR 10 000. In principle, the subsidy was intended to ensure the continuity of social services.

¹¹⁴ Input from Lithuania for the 2021 Rule of Law Report, p. 26.

Annex I: List of sources in alphabetical order*

* The list of contributions received in the context of the consultation for the 2021 Rule of Law report can be found at <https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism/2021-rule-law-report-targeted-stakeholder-consultation>.

Civicus (2021), Monitor tracking civic space – Lithuania ([CIVICUS - Tracking conditions for citizen action](#)).

COEC 2020 annual report. (https://vtek.lt/wp-content/uploads/2021/03/Ataskaita_2020_internetui.pdf)

Constitutional Court of Lithuania, Statement of 16 June 2020 ([Statement by the Constitutional Court - Constitutional Court of The Republic of Lithuania \(lrkt.lt\)](#))

Council of Bars and Law Societies of Europe (2018), *Recommendations on legal aid, para. III.1; 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.*

Council of Bars and Law Societies of Europe (2021), *Contribution from the Council of Bars and Law Societies of Europe (CCBE) for the 2021 Rule of Law Report.*

Council of Europe: Committee of Ministers (2010), *Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities* (<https://rm.coe.int/cmrec-2010-12-on-independence-efficiency-responsibilites-of-judges/16809f007d>).

Council of Europe: Venice Commission (2013), *Opinion on the Draft Amendments to three Constitutional Provisions relating to the Constitutional Court, the Supreme State Prosecutor and the Judicial Council of Montenegro endorsed by the Venice Commission at its 96th Plenary Session* (CDL-AD(2013)028).

Council of Europe: Venice Commission (2014), *Opinion on the Draft Law on the Constitutional Court of Montenegro, adopted by the Venice Commission at its 100th Plenary Session* (CDL-AD(2014)033).

Council of Europe: Committee of Ministers (2021), *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.*

European Commission (2019), *Flash Eurobarometer 482: Businesses' attitudes towards corruption in the EU.*

European Commission (2020), *2020 Rule of Law Report, Country Chapter on the rule of law situation in Lithuania* ([lt_rol_country_chapter.pdf \(europa.eu\)](#)).

European Commission (2020), *Special Eurobarometer 502: Corruption.*

European Commission (2021), *EU Justice Scoreboard.*

European Network of Councils for the Judiciary (2021), *Contribution from the European Network of Councils for the Judiciary for the 2021 Rule of Law Report.*

European Research Council (2021), *press release of 13 January 2021.*

Lithuanian Government (2015), *Lithuania National Anti-Corruption Program 2015-2025* (<https://www.e-tar.lt/portal/lt/legalAct>).

Lithuanian Government (2020), *Programme of the eighteenth Government of the Republic of Lithuania.*

Lithuanian Government (2021), *Input from Lithuania for the 2021 Rule of Law Report.*

Mapping Media Freedom (2021), *Lithuania county profile* (<https://www.mappingmediafreedom.org/country-profiles/lithuania/>).

Media Pluralism Monitor (2021), *Report on Lithuania.*

Reporters Without Borders (RSF) (2021), *World Press Freedom Index report on Lithuania*.

STT (2020), *Booklet on transparency* (<https://www.stt.lt/naujienos/7464>).

STT (2020), *Progress report of National Anti-corruption Program 2015-2025* (<https://www.stt.lt/doclib/iwlpfjmqm2krucnq2u28zyguhkhv7ddy>).

STT contribution to the Law on lobbying (<https://e-seimas.lrs.lt/portal/legalAct/en/TAK/>)

Transparency International (2021), *Corruption Perceptions Index 2020*.

Transparency International (2020), *Exporting corruption. Progress report 2020: Assessing enforcement of the OECD Anti-Bribery Convention* ([2020 Report-Full Exporting-Corruption_EN.pdf](#) (transparencycdn.org))

Annex II: Country visit to Lithuania

The Commission services held virtual meetings in March and April 2021 with:

- Bar Association
- COEC
- Constitutional Court
- Freedom House
- Judicial Council
- Lithuanian Journalists Union
- 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
- Public Information Ethics Association
- Public Procurement Service
- Office of the *Seimas* Ombudspersons
- Special Investigation Service
- Supreme Court
- Transparency International Lithuania

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

- Amnesty International
- Center for Reproductive Rights
- CIVICUS
- 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
- European Federation of Journalists
- European Partnership for Democracy
- European Youth Forum
- Front Line Defenders
- Human Rights House Foundation
- Human Rights Watch
- ILGA-Europe
- International Commission of Jurists
- International Federation for Human Rights
- International Planned Parenthood Federation European Network (IPPF EN)
- International Press Institute
- Netherlands Helsinki Committee
- Open Society European Policy Institute
- Philanthropy Advocacy
- Protection International

- Reporters without Borders
- Transparency International EU