

**LITHUANIAN CONTRIBUTION TO THE 2025 RULE OF LAW REPORT**  
**Additional questionnaire on the single market dimension**

**29 JANUARY 2025**

Lithuanian contribution to the Rule of Law Report's additional questionnaire on the single market dimension is compiled by the Ministry of Foreign affairs of Lithuania from the inputs made by:

- Ministry of Justice of the Republic of Lithuania;
- Ministry of Economy and Innovation;
- Constitutional Court of the Republic of Lithuania;
- National Courts Administration.

**Questions for input on the single market dimension of the Rule of Law Report**

Pillar I:

*Quality of justice*

- Specialisation (of judges/specific courts/chambers within courts) and training for the judiciary to deal with commercial cases.

**Ministry of Justice**

*Regarding specialisation of judges*

Article 34(5) of the Law on Courts of the Republic of Lithuania states that courts may establish specialisation of judges for hearing certain categories of cases. The description of the procedure and grounds for establishing specialisation of judges shall be approved by the Judicial Council.

The president of the court shall assign the judges to the divisions of the court, establish the specialisation of judges for hearing cases of certain categories, and approve the structure of the court (Article 103(2) of the Law on Courts).

The outline of the procedure for determining the specialisation of judges in certain categories of cases<sup>1</sup> stipulates that a specialisation may be established in any category of cases if the president of the court foresees the need for such specialisation, taking into account the qualifications and knowledge of the judges in the particular field, the categories of cases and the peculiarities of their handling provided for by the legislation, the aim to handle the cases in a fair and expeditious manner, and the opinion expressed by the court's judges.

Judges are assigned to specialisations based on the principles of voluntariness, equality and transparency, ensuring rotation and equal opportunities for each judge. The principle of voluntariness may only be disregarded where specialisation in the court is necessary to ensure the proper administration of justice. Criteria to be considered for the appointment of judges to the specialisations:

1. the division (if any) to which the judge is assigned;

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<sup>1</sup> Approved by the resolution of the Judicial Council of 13 November 2008 No. 13P-202-(7.1.2)

2. desired and/or available specialisation of the judge;
3. the opinion expressed by the meeting of the judges of the court or obtained in the course of a survey of the judges of the court as to the assignment of particular judges to a specialisation;
4. the judge's previous assignments to specialisations and its duration;
5. the length of service of the judge;
6. other objective circumstances.

Judge's opinion (agreement or disagreement) is considered when determining the specialisation of a particular judge.

In Lithuania, commercial cases are heard by judges working in the civil divisions (or by judges specialising in civil matters, where there is no civil division in the district court).

#### *Regarding training for the judiciary*

An initial training is compulsory for every newly appointed judge in the Republic of Lithuania. Additionally, there is an obligatory in-service training for judges which aims to broaden special professional knowledge and skill building. The specific grounds for the in-service training are laid down in Article 92(3) of the Law on Courts (for example, in-service training for judges is required when legal regulation of public relations undergoes a fundamental change, when they are given a promotion, etc.).

Training of judges shall be organised by the National Courts Administration, after assessing the training needs. Training programs for judges shall be approved by the Judicial Council following coordination with the Ministry of Justice.

Every year judges are offered a variety of training, including civil law training, that could be also relevant for commercial cases. For example, in 2024 a training course was held on "The competitive supervision of markets and practices and implementation practice and problems of competition law". In 2025 training courses on "Issues related to the protection of intellectual property in courts" and on "Current issues in disputes over joint partial ownership" are planned (more information on specific trainings organized could be provided by the National Courts Administration).

#### **National Courts Administration**

In Lithuanian court system there are no specialised courts that deal with commercial cases. Judges of general jurisdiction courts deal with civil cases, including commercial cases, i.e. cases submitted to their competence by law. According to the established legal regulation, there are Civil Cases Divisions in regional courts, the Court of Appeal of Lithuania and the Supreme Court of Lithuania. District courts usually have general specialisations in criminal and civil cases.

The principles and procedure for determining the specialisation of judges to deal with certain categories of cases is established in the Description<sup>2</sup> of the Procedure for Determining the Specialisation of Judges to Deal with Certain Categories of Cases (hereinafter – the Description).

According to this Description, the specialisation of judges to deal with a certain category of cases, the number of judges to be assigned to it, the specialisation period, the criteria for selecting and assigning judges to specialisation shall be established by the procedure for determining the specialisation of judges in the court, coordinated with the meeting of judges of the court and approved by the order of the president of the court.

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<sup>2</sup> <https://www.e-tar.lt/portal/lt/legalAct/67b68b902fb411efbdaea558de59136c>

Specialisation of judges may be established for any category of cases if the president of the court sees the need to establish such specialisation, taking into account the qualification of judges and knowledge of a particular field, the categories of cases established in legal acts and the peculiarities of dealing with them, the aim to deal with cases fairly and promptly, and having assessed the opinion expressed at the meeting of court judges or by the means of a survey of court judges.

Specialisation in a court (except the specialisation for the performance of the functions of a pre-trial investigation judge established by law) may not be established if the number of judges in the court (and when the court is composed of court chambers – in the court chambers) is too small, or the president of the court, having assessed the opinion expressed at the meeting of court judges or by the means of a survey of court judges, decides that it is inappropriate to establish specialisation. The specialisation of judges in general jurisdiction and specialised courts is being established taking into account the specialisations of judges recommended for district and regional courts and the Regional Administrative Court specified in the Annex to the Description.

According to the Annex to the Description, it is recommended to establish the following specialisations for judges in district and regional courts and the Regional Administrative Court:

- 1) for district courts – specialisations not only in civil cases, but also in labour relations cases, and, according to need and / or possibilities – specialisation in civil cases with an international element;
- 2) for district courts – specialisations in labour relations cases, public procurement cases, and, according to need and / or possibilities – specialisation in civil cases with an international element;
- 3) for the Regional Administrative Court – it is generally recommended to establish a specialisation in tax and / or customs legal relations cases, as well as competition cases.

Judges of the Civil Cases Division of the Lithuanian Court of Appeal are being most often assigned to deal with bankruptcy and restructuring cases, public procurement cases, cases concerning non-property rights of individuals and intellectual property, as well as with cases concerning recognition of foreign court decisions and hearing appeals under the Law on Commercial Arbitration of the Republic of Lithuania<sup>3</sup>.

Judges of the Civil Cases Division of the Supreme Court of Lithuania are being most often assigned to deal with public procurement cases, bankruptcy and restructuring cases, cases concerning banking activities and investment services relations, as well as cases concerning corporate law, material law, labour legal relations, intellectual property and insurance legal relations.

Specialisations to deal with cases concerning competition law, tax and customs disputes have been established in administrative courts of first instance.

In 2024, according to the judicial training programs approved by the Judicial Council, the following training courses in the field of commercial law were organized for judges:

- Topical issues in contractual, tort and civil liability;
- Problematic aspects of contract formation and qualification in the context of dispute resolution;
- Methods of securing performance of contracts – relevant case law;
- False advertising – assessment from the consumer's perspective. Methods and standards of assessment, the standard of the average consumer;
- Future trends in contractual dispute resolution.

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<sup>3</sup> <https://www.e-tar.lt/portal/lt/legalAct/TAR.952D5CAC35AC/asr>

- Alternative dispute resolution mechanisms and mediation

### **Ministry of Justice**

In Lithuania, one of the alternative dispute resolution methods for resolving commercial disputes is arbitration. The Law on Commercial Arbitration of the Republic of Lithuania shall apply to the resolution of commercial disputes by arbitration. This Law shall regulate arbitral proceedings taking place on the territory of the Republic of Lithuania, set requirements for the form and content of an arbitration agreement, the formation and competence of the arbitral tribunal, application of interim measures and delivery of a preliminary order, arbitral awards and closure of proceedings without an award being made on its merits, setting aside of an arbitral award, recognition and enforcement of foreign arbitral awards on the territory of the Republic of Lithuania, and regulate other issues related to arbitration.

In Lithuania, mediation can be applied in civil disputes, which also include commercial disputes, as well as in administrative disputes. The Law on Mediation shall establish the basic conditions of mediation in civil and administrative disputes, functions of institutions in the field of mediation, requirements for persons seeking to provide mediation services, the compilation and management of the list of mediators of the Republic of Lithuania, the procedure for conducting mediation, specificities of mandatory mediation and judicial mediation, and disciplinary liability of mediators. Types of mediation include out-of-court mediation and judicial mediation. The recent amendments to the Law came into force in 2019 and 2025. Information regarding these amendments was provided in previous inputs for the Rule of Law Report.

In the field of alternative dispute resolution, a separate system operates for resolving disputes with consumers, in which the State Consumer Rights Protection Authority plays the main role. Consumer disputes are resolved in accordance with the requirements of Directive 2013/11/EU. In 2024, the mentioned Authority received and examined a total of 10,368 disputes, of which 2,496 cases resulted in amicable agreements and 3,894 decisions on the merits of the dispute. The average duration of consumer dispute examination was 54 days.

### **National Courts Administration**

The use of judicial mediation is encouraged and the activities of a judge as a court mediator, among other things, have an impact on the assessment of the judge's activities. When assessing the statistical average workload of a judge, additional points may be awarded by assessing the number of cases examined by judicial mediation and their results, and the number of concluded settlement agreements in cases examined by the judge.

The judge has a procedural duty to take measures to reconcile the parties (Part 1 Article 159, Article 231 of the Code of Civil Procedure of the Republic of Lithuania). The judge's work in mediation is included in his / her workload.

Great attention is paid to improving the practical skills of judges who are mediators as the training in the field of mediation according to the training programs for judges approved by the Judicial Council is being organised for them. Training is being organised not only for experienced judges, but also for those judges who are just starting their career as mediators. Moreover, introductory mediator training is being organised for them.

At the end of 2024, 134 judges had the status of mediator. The largest number of judges with the status of mediator work in district courts (64 percent) and in regional courts (23 percent).

Judicial mediation is carried out in accordance with the Law<sup>4</sup> on Mediation of the Republic of Lithuania, the Code<sup>5</sup> of Civil Procedure of the Republic of Lithuania, the Law<sup>6</sup> on Administrative Procedure of the Republic of Lithuania, the Rules<sup>7</sup> of Judicial Mediation approved by the Judicial Council and other implementing legal acts.

Judicial mediation is usually conducted by court mediators – judges. However, it can also be conducted by all mediators included in the List<sup>8</sup> of Mediators of the Republic of Lithuania (hereinafter – the List of Mediators).

A court mediator who has conducted judicial mediation in a civil case may not participate in the hearing of this case as a judge, assistant to judge or other participant in the proceeding. If the judge hearing a civil case conducted judicial mediation in his or her own civil case and failed to conclude a settlement agreement during the judicial mediation, the judge must recuse himself or herself from the hearing of the case and the civil case shall be submitted to another judge (member of the panel of judges).

Judicial mediation is free of charge for the parties to the case. When a mediator, other than a judge, is selected from the List of Mediators and appointed by the State Guaranteed Legal Aid Service (hereinafter – SGLAS) in a civil case according to the procedure established in Article 14 of the Law on Mediation, judicial mediation services are paid for by the SGLAS from the State's budget. In this case, judicial mediation may be conducted for up to five hours. If, after this time, a final agreement on a peaceful resolution of the dispute has not yet been reached, the parties to the dispute may continue judicial mediation voluntarily at the expense of the parties to the dispute. The State's budget also covers the initiation of the mediation process, which may last up to one hour, the preparation of the mediator for judicial mediation, which may last up to one hour, and the formalisation of the mediation results, which may last up to one hour. The amounts of remuneration paid to mediators other than judges from the State's budget for the judicial mediation services provided (up to eight hours in total) and the payment procedure is established by the Government of the Republic of Lithuania.

Judges do not receive additional remuneration for conducting judicial mediations. However, they are not assigned one regular case for one completed judicial mediation.

The figures on judicial mediation and its effectiveness over the past 3 years are as following:

	2022	2023	2024 <sup>9</sup>
Number of completed judicial mediation processes	534	689	748
Number of concluded settlement agreements	244	317	368

<sup>4</sup> <https://www.e-tar.lt/portal/lt/legalAct/TAR.27B041C4CCDE/asr>

<sup>5</sup> <https://www.e-tar.lt/portal/lt/legalAct/TAR.2E7C18F61454/asr>

<sup>6</sup> <https://www.e-tar.lt/portal/lt/legalAct/TAR.67B5099C5848/asr>

<sup>7</sup> <https://www.e-tar.lt/portal/lt/legalAct/70208500f79411e880d0fe0db08fac89/asr>

<sup>8</sup> <https://vgtp.lt/lt/prokurorams-tyrejamais-ir-teismams/advokatu-mediatoriu-ir-psichologu-sarasai-1/lietuvos-respublikos-mediatoriu-sarasas-1/>

<sup>9</sup> There are no exact statistics for 2024 at the time of submitting the responses. Courts are still entering data into the Lithuanian Court Information System, so it may change.

Statistics show that the number of judicial mediation processes remains stable, and the effectiveness of judicial mediation reaches about 50 percent, which is a fairly good indicator.

Additional information about judicial mediation can be found there: <https://statistika-ntalt.hub.arcgis.com/>.

### **Constitutional Court**

There is no specialisation of justices in the Constitutional Court of the Republic of Lithuania. Justices do not use alternative dispute resolution mechanisms and mediation while implementing constitutional justice function of the Court.

#### **Pillar II:**

##### *Prevention*

- Measures for the prevention of corruption in relation to the issuing of official permits (e.g. related to environment, energy and various types of construction)
- Reporting on the use of digital technologies to enhance transparency and oversight in public procurement

### **Constitutional Court**

In 2024, the Constitutional Court did not adopt rulings related to the questions of issuing of official permits.

However, the issues related to the provision of public services related to environment were considered in the Constitutional Court's ruling of 10 October 2024 on the duty to ensure freedom of fair competition when municipalities authorise the provision of public services (<https://lrkt.lt/lt/teismo-aktai/paieska/135/ta3060/content>). By this ruling, the Constitutional Court recognised that the provision 'In the cases specified in items 1, 2, and 4 of paragraph 2 of this Article, the requirements laid down in Article 56 of this Law and the requirements and prohibitions laid down in Article 4 of the Law on Competition shall not be applied' of paragraph 3 (wording of 29 June 2023) of Article 55 of the Law on Local Self-Government was in conflict with paragraphs 1, 3, and 4 of Article 46 (enshrining freedom of economic activity and its restrictions) and paragraph 2 of Article 120 of the Constitution (enshrining that 'Municipalities shall act freely and independently within their competence defined by the Constitution and laws'), as well as the constitutional principle of a state under the rule of law.

In the petitioner's opinion, given that, according to the impugned legal regulation, municipalities were not bound by the obligation to ensure freedom of fair competition (relating to the management of municipal waste necessary for the respective territorial community) and could adopt legal acts or other decisions granting privileges to or discriminating against individual economic entities or groups thereof, which would or could result in differences in the conditions of competition for economic entities competing in the respective market, such a legal regulation did not comply with the requirements arising from the Constitution.

The Constitutional Court held that paragraphs 1, 3 and 4 of Article 46 and paragraph 2 of Article 120 of the Constitution, as well as the constitutional principle of a state under the rule of law, create the requirement for the legislature, when regulating the implementation of the functions of organising the provision of public services necessary for territorial communities, also to respect the imperatives forming the constitutional basis of the national economy. That requirement presupposes, among others,



the legislature's duty to lay down in a law only such provisions on the organisation of the provision of public services essential to territorial communities according to which the provision of such services would in all cases be organised, in particular, in a manner that would ensure, among others, fair competition. According to the Constitution, the possibility of derogating from the above requirements when organising the provision of such public services may be provided for by law only in exceptional cases (among others, where it would otherwise be impossible to ensure the accessibility, continuity, and good quality of the public services necessary for the territorial community) and only after an assessment in a specific case of the possibility of organising the provision of such public services in a way that ensures, among others, fair competition.

Thus, under the Constitution, when enshrining, in the legal regulation governing the organisation of the provision of public services necessary for a territorial community, the duty of municipalities to organise the provision of such services, among others, in a way that would preclude the monopolisation of the market of the provision of such public services and would not deny the equality of participants in that market, the legislature may at the same time create the preconditions for not fulfilling this duty only in exceptional cases (only where it is necessary in a specific case to ensure the accessibility, continuity, and good quality of the public services necessary for the territorial community) and only where it would be impossible to do so in any other way (i.e. by ensuring, among others, fair competition). This is the only way to ensure that both the public interest of territorial communities and the public interest of the state community as a whole are respected when organising the provision of public services necessary for the territorial communities.

The Constitutional Court noted that the impugned legal regulation, consolidated in paragraph 3 of Article 55 of the Law on Local Self-Government, governing the administration of the provision public services prescribed that a municipality, administering the provision of certain established public services when it, in accordance with the procedure laid down by law, among others, entrusted the provision of such public services to an already established public service provider, was not obliged to comply with the requirements and prohibitions laid down in Article 4 of the Law on Competition, including those related to ensuring freedom of fair competition.

The Constitutional Court held that, after the impugned legal regulation, consolidated in paragraph 3 of Article 55 of the Law on Local Self-Government, had established that, when a municipality organises the provision of public services specified in the law, the requirements and prohibitions related, among others, to ensuring freedom of fair competition do not apply in all cases, it created the preconditions for municipalities not to fulfil in all cases their duty to organise the provision of public services necessary for the territorial community, among others, in such a way that the market of the provision of such public services would not be monopolised and the equality of the rights of participants in that market would not be denied. Thus, this created the preconditions for municipalities to fail to fulfil such a duty not only in exceptional cases (i.e. among others, not only where it is necessary in a specific case to ensure the accessibility, continuity, and good quality of the public services necessary for the territorial community) and not only where, following an assessment in a specific case of the possibility of organising the provision of such public services in a way that ensures, among others, fair competition, it turns out that it would be impossible to do so.

Consequently, such a legal regulation paid no regard to the requirements, arising from paragraphs 1, 3, and 4 of Article 46 and paragraph 2 of Article 120 of the Constitution, as well as the constitutional principle of a state under the rule of law, for the legislature when regulating the organisation of the provision of public services necessary for territorial communities and, at the same time, did not ensure that both the public interest of territorial communities and the public interest of the state community as a whole are respected when organising the provision of public services necessary for the territorial communities.

The Constitutional Court also noted that the preconditions for ensuring fair competition in the administration by municipalities of the provision of public services would be created, among others, only when it is ascertained in a specific case that, when the municipality entrusts the provision of public services to an already established public service provider, the latter is not granted privileges, and other economic entities operating in the respective market are not discriminated against.

In addition, the Constitutional Court held that, according to another legal regulation, consolidated in paragraph 3 (wording of 29 June 2023) of Article 55 of the Law on Local Self-Government, the requirements and prohibitions laid down in Article 56 of the Law on Local Self-Government were also not applicable when deciding on the performance of a new economic activity specified in the law. Such a legal regulation laid down in paragraph 3 of Article 55 of the Law on Local Self-Government prescribed that a municipality, administering the provision of certain established public services, could in all cases adopt a decision on the performance of a new economic activity specified in the law, regardless of whether such a decision would grant privileges to or discriminate against individual economic entities or groups thereof, and it did not need to obtain prior consent from the Competition Council, in order to obtain which the municipality would have had to conduct a competitive procedure for the selection of economic entities.

Having held in this ruling that paragraph 3 of Article 55 of the Law on Local Self-Government, insofar as, under that paragraph, in the cases specified in items 1, 2, and 4 of paragraph 2 of Article 55 of that law, the requirements and prohibitions laid down in Article 4 of the Law on Competition were not applicable, was in conflict with paragraphs 1, 3, and 4 of Article 46 and paragraph 2 of Article 120 of the Constitution, as well as the constitutional principle of a state under the rule of law, the Constitutional Court, on the basis of the same arguments, also held that the legal regulation consolidated in paragraph 3 of Article 55 of the Law on Local Self-Government was also in conflict with the same provisions of the Constitution, insofar as, according to that legal regulation, the requirements set out in Article 56 of that law were not applicable in the cases specified in items 1, 2, and 4 of paragraph 2 of Article 55 of that law.

#### Pillar IV:

##### *The process for preparing and enacting laws*

- Safeguards to ensure legal certainty, the stability of the legal framework and non-discrimination. *[this question complements the exiting question on rules and use of fast-track and emergency procedures]*

#### **Ministry of Justice**

The legislative principles, stages, rights and duties of the persons participating in legislation are determined by the Law on the Legislative Framework of the Republic of Lithuania. It sets the basic rules for legislation procedures. The Law on the Legislative Framework (Article 3, part 2) determines that legislation must be guided by the following principles: principle of legal expediency, proportionality, respect for individual rights and freedoms, openness and transparency, effectiveness, clarity, and systematicity. Compliance with these principles ensures legal certainty, stability of the legal system, and non-discrimination.

The stability of the legal framework is reflected in the principle of legislative expediency, which emphasizes the need to first assess whether regulatory intervention is necessary. The Statute of the Seimas (Article 135 part 7) establishes a requirement that implements the principle of legislative expediency – “a draft law to supplement or amend a law may be submitted to a session of the Seimas no earlier than 6 months after the adoption of that law.” This requirement does not apply to the



implementation of Constitutional Court rulings, to the draft law submitted by citizens, or when the draft law supplementing or amending the law is submitted by the Government or at least 1/5 of all members of the Seimas.

Public consultations with interested institutions and society are an important measure to ensure legal certainty, stability of the legal system and non-discrimination. Drafts legal acts (except those containing information classified as a state or service secret, or as a commercial secret) are submitted for review to relevant institutions and for public comments and suggestions by publishing them in the Legislative Acts Information System of the Seimas of the Republic of Lithuania. Public consultations are a mandatory and unavoidable stage of the legislation process. The initiator of the draft legal act (ministry, institution subordinate to the Government) has a duty to conduct public consultations and is responsible for this procedure. According to the legislative rules, the Office of the Government will not evaluate a draft legal act if it has not been coordinated with relevant institutions and stakeholders. Such a draft is returned to the initiator of the draft legislation.

During public consultations, institutions submit comments and suggestions regarding the project of legal act according to their competence. A broader, systematic assessment of compliance with legislative principles is carried out by the Ministry of Justice, the Office of the Government (according to the Government's work regulations) and the Office of the Seimas (according to the Statute of the Seimas).

Public consultations are not mandatory (according to the Government Law Article 38, part 2) only in exceptional cases, for example, when the draft legal act is submitted to the Government during war, state of emergency, mobilization, quarantine, emergency situation or emergency event, or when it is necessary to ensure the state's military defence and other vital functions of the state.

Article 29 of the Constitution establishes the formal equality principle for all persons in its first part, while its second part enshrines the principle of non-discrimination and non-privilege. The constitutional principle of equality of persons before the law means the natural right of a person to exist and to be treated equally with others. The principle of non-discrimination is reflected in the constitutional principle of individual rights and freedom. In addition to the measures outlined above, the Statute of the Seimas (article 139 part 1) also contributes to the implementation and observance of the principle of non-discrimination. If the Committee on Legal Affairs of the Seimas concludes that a draft law contradicts the Constitution and the proposed draft law is not a draft amendment to the Constitution submitted in accordance with the established procedure, the Speaker of the Seimas submits this conclusion to the Seimas for consideration. In such case, a draft law may only be considered without submitting draft amendments to the Constitution if the Seimas, by a majority vote of all its members, disagree with the conclusion of the Committee on Legal Affairs that the draft law contradicts the Constitution.

### **Ministry of Economy and Innovation**

The assessment of regulatory burdens for business caused by legal regulation contributes to evidence-based decision making. Prior to 2023, Lithuanian institutions had been required to assess only administrative burden (everything related to the flow of information, such as submission of activity reports, declarations or other information to government institutions; publication of mandatory information on business' websites; etc.). Since 2023, institutions have been required to assess administrative burden and compliance costs for businesses – i.e., all real financial costs, such as adapting premises to comply with legal regulations, staff training, acquisition of materials, etc. Collectively these costs are referred to as regulatory burden. This change was implemented by the adoption of a Government Resolution No. 333 of the Government of the Republic of Lithuania of 6 April 2022, which approves the Methodology for Assessing the Administrative Burden and Compliance

Costs for Business<sup>10</sup>. The Resolution also establishes a compliance cost reduction goal from 2023, which applies to every governmental institution – i.e., these institutions must constantly seek out measures to ensure that the overall level of compliance costs caused by the institution's regulations for each calendar year diminish or remain unchanged relative to the beginning of the year (the One-In, One-Out Rule). Meanwhile, for municipalities and institutions independent of the Government, the Resolution includes a recommendation to assess not only the administrative burden for business, but also the compliance costs. Draft legal acts and their impact assessments are submitted to the Ministry of the Economy and Innovation, which is responsible for monitoring the change in the overall level of regulatory burden on business imposed by Lithuanian public authorities.

### *Independent authorities*

- Safeguards to ensure the effective independence of supervisory and regulatory authorities with a direct impact on economic operators

### **Ministry of Justice**

The State Data Protection Inspectorate is an independent institution that monitors and ensures the application of Regulation (EU) 2016/679<sup>11</sup> and the Law on Legal Protection of Personal Data<sup>12</sup> (except for processing of personal data for journalistic purposes and for the purposes of academic, artistic or literary self-expression, which is supervised by the Inspector of Journalist Ethics<sup>13</sup>).

The independence of the State Data Protection Inspectorate is ensured by considering all the requirements of the Regulation. Guarantees of independence are also enshrined in the Law on Legal Protection of Personal Data, e.g.:

- The State Data Protection Inspectorate's administrative structure and strategic and annual action plans shall be approved by the Director of the State Data Protection Inspectorate.
- The State Data Protection Inspectorate shall be independent in performing the tasks of the supervisory authority specified in Regulation (EU) 2016/679 and in performing the functions assigned to it by this Law, as well as in taking decisions on the performance thereof. Its rights may be restricted solely by laws.
- Nobody (state institutions, members of the Parliament or other officials, political parties, etc.) shall have the right to exert any political, economic, psychological or social pressure or make other undue impact on the State Data Protection Inspectorate, its Director, civil servants, and employees.
- Interference with the activities of the State Data Protection Inspectorate shall entail liability established by law.

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<sup>10</sup> <https://www.e-tar.lt/portal/lt/legalAct/TAR.134272D720DF/asr>

<sup>11</sup> <https://eur-lex.europa.eu/eli/reg/2016/679/oj/eng>

<sup>12</sup> <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.29193/asr?positionInSearchResults=1&searchModelUUID=d2809cfb-0297-41db-99d8-b682c7317ffc>

<sup>13</sup> Guarantees of the independence of the Inspector of Journalist Ethics Are Enshrined in the Law on the Provision of Information to the Public

<https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.29884/asr?positionInSearchResults=0&searchModelUUID=022f4d54-d28f-487b-b958-3fe796cf2b99>

- The Director of the State Data Protection Inspectorate must suspend any membership in a political party for the duration of the Director's term of office.
- The Director of the State Data Protection Inspectorate shall be dismissed from office only on the grounds foreseen by this Law in accordance with Regulation (EU) 2016/679.

Moreover, additional guarantees of independence for the Director of the State Data Protection Inspectorate are provided for in other laws. E. g. the Law on Civil Service<sup>14</sup> foresees limited application of certain articles.

#### *Accessibility and judicial review of administrative decisions*

- Respect of the good administration principle (including the obligation of the administration to give reasons for decisions) *[this question complements the existing question on transparency of administrative decisions]*
- Safeguards (other than judicial review) regarding decisions or inaction of administrative authorities, including remedies. *[this question complements the existing question on judicial review of administrative decisions]*

#### **Ministry of Justice**

As it was already provided in previous inputs for the Rule of Law Report, before applying to an administrative court, individual legal acts or actions taken by entities of public administration provided by law may be disputed in the pre-trial procedure. In this case disputes are investigated by the Lithuanian Administrative Disputes Commission (hereinafter – Commission) or by the Tax Disputes Commission under the Government of the Republic of Lithuania. According to the report on the activities of the Commission, in 2023, 1726 complaints were received regarding possible violations of the rights of applicants. The Commission adopted 1762 decisions within the statutory time limits. 1577 decisions, or 89.6% of all Commission decisions, were not appealed to the administrative courts. Disputing parties, disagreeing with 184 (or 10.4%) decisions of the Commission, appealed to the administrative court. In 2023, the administrative courts ruled on the validity of 179 Commission decisions, of which 132 (or 74%) were left unchanged. This shows that the vast majority of Commissions decisions are not appealed and/or remain unchanged by the court.

According to Articles 22(2) and 23(1) of the Law on the Procedure for the Pre-trial Examination of Administrative Disputes of the Republic of Lithuania, decisions of the Commission that have become final are binding to parties of the dispute. Decisions become final after the expiry of the time limit for appeal.

According to the report on the activities of the Tax Disputes Commission of the Republic of Lithuania, in 2023, 220 complaints were received from legal and natural persons. The Tax Disputes Commission adopted 300 decisions in 2023, of which 205 decisions were adopted in tax dispute cases following the resolution of a tax dispute and 95 decisions were adopted on other requests related to tax disputes. The proportion of the Tax Disputes Commission's decisions that were not appealed was 63%. In 2023, the administrative courts ruled on the validity of 75 Tax Disputes Commission decisions, of which 66 or 88% were left unchanged. These results demonstrate the quality of the functioning of the pre-litigation

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<sup>14</sup> <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.84605/asr?positionInSearchResults=1&searchModelUUID=022f4d54-d28f-487b-b958-3fe796cf2b99>

institution and its effective contribution to reducing the number of disputes before the courts. According to Article 158(1) of the Law on Tax Administration of the Republic of Lithuania, after the expiry of the time limit for appealing a decision on a tax dispute, the parties to the dispute, as well as third parties involved in the dispute, are obliged to comply with the decision adopted by the central tax administrator or the Tax Disputes Commission.