



Public Audit Report

LEGISLATIVE PROCESS

16 March 2018, No. VA-2018-P-40-6-2



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SUMMARY

Legal regulation is a certain form applicable to the defining of social order aimed at the proper execution of state functions, expectations of civil society and creation of conditions for efficient development of the society and the state.

Clarity, sensibility, and efficiency of the legal regulation relies on the entire process of creating legal (legislative) regulation. The purpose of the legislative process is to create the unified, coherent, sustainable and effective legal system based on the appropriateness, proportionality and respect for individual rights and freedoms, openness and transparency, efficiency, clarity and systematic principles. Legislative framework expresses certain requirements for legal entities involved in the legislative process, namely: to oblige them, when drafting legislation (legal acts), to assess the effect of the envisaged legal regulation and all potential alternatives of the envisaged legal regulation, in order to ensure necessity and appropriateness of the existing legal regulation as well as its monitoring and providing consultation to the public in all legislative stages¹.

The Constitutional Court has repeatedly stated in its jurisprudence that the rule of law in the state is in the very essence of the constitutional principle of law domination; the imperative of constitutional law domination means that freedom of the power is limited by law which must be complied with by all entities bound by legal relations without excluding those involved in the legislative process. This principle shall be strictly followed when designing and implementing the law².

Supreme Audit Institution, when conducting public audits, annually establishes particular deficiencies in the legal regulation³. Unclear excess regulation and legal acts which are often not aligned with each other complicate application of the law, cause legal controversies and increase the administrative burden and scope of public administration activities, preconditions corruption and the inefficient use of state budget funds as well as other negative effects. According to the opinion of 32 % of Lithuanian population, 18 % of company managers and 17 % of state officers imperfect laws and gaps in the law cause serious problems to be dealt with⁴.

The objective of the audit is to assess whether the applicable legislative process provides the right basis for a unified, coherent, sustainable and effective legal framework by answering the following questions:

- Whether the assessment of the existing legal regulation makes it possible to ascertain the relevance of the regulation and to identify the need for its amendment;
- Whether responsible legislation is ensured in the drafting and adoption of legislation.

During the audit, in the course of analysis of the legislative process, the main focus was made on drawing and adopting the laws – legal acts aimed at the implementation of the most important

¹ The Law on Legislative Framework of the Republic of Lithuania, Articles 7, 15 and 24.

² Ruling of the Constitutional Court of the Republic of Lithuania of 8 July 2016.

³ Public Audit Report 29/03/2017 No. VA-P-50-3-6 "Are there conditions in place for the effective functioning of the internal control system in the public sector"; 03/03/2017 No. VA-P-30-1-4 "Is Housing Accessibility Assured to Low-Income Residents"; 30/09/2016 No. FA-P-10-3-4-1 "Regularity of the 2015 set of consolidated statements, management, use and disposal of public funds and property of the State Social Insurance Fund"; 24/09/2015 No. FA-P-10-7-26-1 "On the results of the financial (regularity) audit carried out in the State Social Insurance Fund in 2014"; 20/07/2015 No. FA-P-10-6-10-1 "On the results of the financial (regularity) audit carried out in the Ministry of Health of the Republic of Lithuania"; 01/09/2014 No. FA-P-30-1-48 "On the results of the financial (regularity) audit carried out in municipalities of the Republic of Lithuania".

⁴ Lithuanian Corruption Map 2016. Available online: <https://www.stt.lt/lt/menu/tyrimai-ir-analizes/>.

tasks of legal regulation, because all law-makers are involved in the aforementioned stages, unlike during the drafting of other legislation. The laws govern the most important relations in the sphere of human rights and freedoms, ownership, management, the use and disposal of state and municipal assets, public service, tax and other social relations. Inadequate legal regulation established by the law could also cause the improper regulation stipulated in legal acts implementing the law (Government Resolutions, Ministerial orders, etc.).

Audited entities:

- Ministry of Justice, which is entrusted with the following functions: shaping state policies in the areas of development of the national legal framework, regulation of legal processes (which includes the legislative process), organising, coordinating and controlling its implementation; drawing up draft laws, government resolutions and other legal acts within the scope of its competence; issuing conclusions on draft legal acts in the cases and in accordance with the procedure laid down by law⁵;
- Office of the Government, which is entrusted with the following functions: assessing draft legislation submitted to the Government and to the Prime Minister; participating in the improvement of the system for assessing the effect of the envisaged regulation⁶;
- European Law Department under the Ministry of Justice, which is entrusted with the following functions: coordinating the transposition of EU legislation into national law and its implementation; issuing conclusions on the compliance of the draft law and Government Resolutions with the EU law⁷.

We collected information from audit entities, the Office of the Seimas and all Ministries (in some selected ministries we have carried out an extensive analysis of legislative processes, namely, the Ministry of Finance, the Ministry of Social Security and Labour). The audit included analysis of legal acts regulating particular legislative processes and their implementation practices. We also used a study prepared by the Parliamentary Research Department of the Seimas in 2015 entitled "Legislative Tendencies and Indicators in the European Union Member States and Lithuania" and a study prepared by the Law Institute in 2017 entitled "Prospects for *Ex Post* Evaluation of Legal Regulation in Lithuania" ⁸. We have discussed issues of interest with representatives of the academic society, business, and non-governmental organisations. In cooperation with the Committee on Legal Affairs of the Seimas we have organised a discussion with representatives of law-makers, executive authorities, academic society, and Lithuanian Bar Association in order to consider legislative process tendencies prevailing in Lithuania.

Period of audit – 2014–2017. Longer-term data were also collected to assess the developments. We have analysed data of the legislation in the Seimas from 15/11/2004 to 16/11/2008 (hereinafter referred to as the 2004–2008 period), from 17/11/2008 to 14/11/2012 (hereinafter referred to as the 2008–2012 period), from 16/11/2012 to 10/11/2016 (hereinafter referred to as the 2012–2016 period), and from 10/03/2017 to 11/07/2017.

During the audit, we took the view that the conditions required for establishing the appropriate legal regulation and creating a unified, coherent, sustainable and effective legal framework will be

⁵ Regulations of the Ministry of Justice approved by the Government Resolution of 1998-07-09 No. 851 (As last amended by Resolution of 2010-10-13 No. 1464, paras 7, 8.1, 8.3 and 8.9.

⁶ Regulations of the Office of the Government approved by the Government Resolution of 2013-03-27 No. 254, paras 9.1 and 9.8.

⁷ Regulations of the European Law Department under the Ministry of Justice approved by the Order of the Minister of Justice of 2014-07-02 No. 1R-204, paras 8.1 and 8.2.1.

⁸ Available online: <http://teise.org/wp-content/uploads/2018/01/Ex-post3.pdf>.

met when reliable information on the necessity, appropriateness, adequacy, effectiveness and the need for modification of the existing legal framework, is managed. When the drafting and adoption of the laws will be based on the sound, reliable and comprehensive information on the possible positive and negative consequences of envisaged legal regulation for the persons or groups of persons in respect of whom the legislation will apply, as well as its effect on the economy, public finances, the social environment, public administration, the legal system, criminogenic situation, the scale of corruption, environment, administrative burden, regional development and other areas.⁹ When the Lithuanian national law will be harmonised with the European Union directives in time and with the consideration of all possible alternatives¹⁰. When the Legislative Information System of the Office of the Seimas will publish all the required information¹¹ and public consultations will be held in all legislative stages¹². When there will be enough time for legislation, and urgency and extreme urgency status will be applied only in exceptional cases when there is an obvious need due to unforeseen exceptional circumstances of a particular national social, economic or political situation.

During the audit, it was detected that:

There are not enough actions aimed at the assessment of the relevance of existing legal acts for the achievement of goals set forth for the regulatory purposes

In order to assess the necessity, sufficiency, and efficiency of legal regulation and identify the need to amend or repeal it, all valid legal acts shall be subject to regular monitoring and assessment. The state institutions, when planning the monitoring of legal regulation, failed to assess the relevance and challenges of legal regulation, as it is required by the Law on Legislative Framework of the Republic of Lithuania¹³. Therefore, monitoring was performed for legal acts that did not relate to the Governmental priority and other strategic goals of the state as well as to the regulation of relevant social relations (health care, education, etc.).

The monitoring carried out is fragmented. There are more than 84 thousand legal acts in force in Lithuania, however only 47 (0.06 %) legal acts have been subject to the regulatory monitoring performed by state institutions within the last 3 years (2014-2016). One or several articles have been assessed in 64 % of monitored legal acts. According to the conclusion provided by the Law Institute "in almost all cases, monitoring of legal regulation is carried out only superficially, but not with a view to clarifying the true and real effect of the legislation".

Only 11 % of state institutions entrusted with the monitoring of legal regulation performed it; none of municipalities were involved in this process¹⁴.

The results of legal regulation monitoring carried out in such a scope and quality do not allow for the identification of regulations to be amended, obsolete or redundant, and therefore legislation with negative consequences for the economy, public finances, public administration, social environment, individuals or groups of individuals remains in force.

⁹ The Law on Legislative Framework, Article 15(2).

¹⁰ The Law on Legislative Framework, Article 9(2).

¹¹ Ibid, Article 5(2).

¹² Ibid, Article 7.

¹³ Ibid, Article 24(2).

¹⁴ The Law Institute "Prospects for the ex-post evaluation of legal regulation in Lithuania", 2017, pages 108–109. Available online: <http://teise.org/wp-content/uploads/2018/01/Ex-post3.pdf>.

Systematic assessments of legal regulation that would help to create a unified, coherent and sustainable legal framework have not been performed at all.

The Ministry of Justice is in charge of coordination of monitoring of legal regulation. The Law on Legislative Framework of the Republic of Lithuania establishes that monitoring shall be aimed at the assessment of the effect of legal regulation on both the regulated area and other areas as well as their administrative burden.

Assessment of administrative burden on economic operators preconditioned by applicable legal acts falls into the area of competence of the Ministry of Economy, whereas administrative burden on citizens and other persons is under the competence of the Ministry of the Interior. Thus, three Ministries are responsible for coordination of the assessment of legal regulation, but their competences are not mutually inclusive.

Draft legislation does not assess or superficially assesses the expected consequences of regulation

The participants in the legislative process do not properly fulfil their obligation to carry out an assessment of the effect of envisaged legal regulation and to submit the results of the assessment together with the draft law submitted to the Seimas¹⁵.

The explanatory notes analysed (10 % of the recast laws adopted over 4 years) indicated that the planned legal regulation would not have negative consequences for the regulated area and would not have an effect on the criminogenic situation and corruption, would not have an effect on the business environment and its development, and would not require additional funds from the State budget.

Those assessments are unsubstantiated and unjustified. Possible alternatives to legal regulation are not provided. Ministries do not provide a possibility to ascertain if the assessment of the effect of legal regulation was carried out and if it is substantiated, since 9 of 14 Ministries do not record processes carried out during the drawing up of a draft legal act and the assessment of its potential effect. An instrument for assessing the effect of legal regulation applicable to legislative process was established in 2003. The legislation provides for which areas and when the consequences of the envisaged regulation are to be assessed, but so far there is no effective framework for carrying out and monitoring impact assessments:

- Drawing up of draft legal acts and assessment of their effect is assigned to various specialists of the Ministries; there are almost 2,000 of them in all 14 Ministries. It would be inefficient and unreasonable for the state to train such a number of specialists to be qualified in impact assessment. Staff from 11 (out of 14) Ministries lack training on how to assess the effect of the envisaged legal regulation, while only around 10 % of all staff have received training in this area during the audited period;
- The control mechanism does not ensure that changes to the existing legal framework properly assess the possible consequences of the envisaged regulatory framework and the alternatives to the regulatory framework during the introduction of changes to the existing legal regulation.

¹⁵ Statute of the Seimas of the Republic of Lithuania, Article 135 (3) (5-7 and 12)

Over-abundance of legislation and adoption of laws under the urgency and extreme urgency procedure do not allow for a thorough assessment of the draft laws submitted to the Seimas

The Seimas receives about 700 draft laws on average each year; this is 2-4 times more than draft laws submitted to the parliaments of the neighbouring states (the Estonian Parliament has an average of 200 draft laws per year, Poland - 338, Latvia - 417).

3,779 draft laws were registered at the Seimas during 2012-2016, more than a half of which (2 200) were submitted by the members of the Seimas. The Seimas accepted 30 % of draft laws proposed by the members of the Seimas and 85 % of draft laws submitted by the Government. The Board of the Seimas requested the Government to give an opinion on 860 draft laws. The Government has submitted 838 conclusions by April 2017 where only 3 % of them (26) were submitted following the 4-week submission term, stipulated in the Statute of the Seimas.

The Seimas Statute provides that draft laws may be considered as a matter of urgency or extreme urgency. The application of these procedures allows the Seimas to react promptly to situations requiring quick solutions. However, the excessive application of urgency procedures could undermine the publicity of the legislative process, reduce the transparency of the whole process and could not ensure the required level of the legal regulation due to reduced opportunities for concerned parties to take part in the legislative process, as well as due to the circumstances preventing the Seimas Committees from the consideration of a draft law and of making public of relevant information. Therefore, the urgent or extra-urgent consideration procedures should apply only in exceptional cases when it is obviously required by exceptional social, economic or political circumstances of a country's life, however, the Seimas Statute does not define clear criteria under which this procedure may be applied.

Urgent or extra-urgent consideration procedures are being applied in Lithuania for approximately 50 % of all consideration cases. In other European countries, e.g., Finland, Sweden, United Kingdom, and Poland this procedure does not result in more than 5 % of the draft laws¹⁶, in neighbouring Estonia - 10 %. Almost 70 % of proposals for consideration of draft laws applying urgent or extra-urgent consideration procedures were reasoned that Lithuania was late in transposing the EU directives into national law. It shall be noted that Lithuania, as well as other EU Member States, is provided with a 2-year time limit for preparation and adoption of legal acts, transposing provisions of the directives¹⁷. The legislative process during the audited period was very intense in quantitative terms. High flow of adopted laws and frequent application of urgent and extra-urgent procedures increase the risk of errors.

Delays in transposing the EU Directives into the national law and failing to assess all potential alternatives of the envisaged legal regulation

Lithuania delay transposition of 54 % (108 of 199) of the EU Directives, the deadline for transposition of which ended in 2014- the 1st half of 2017 due to failure to timely draft laws and other legal acts transposing EU directives.

Lithuania did not perform a thorough assessment of all possible alternatives to the transposition of directives in order to choose a solution that is in the best interest of Lithuania. The existing control mechanism does not ensure that the options for transposition provided for in the

¹⁶ Study of the Parliamentary Research Department of the Seimas of the Republic of Lithuania "Legislative tendencies and indicators in the European Union Member States and Lithuania", page 41.

¹⁷ Available online: <http://eur-lex.europa.eu/legal-content/LT/TXT/?uri=URISERV%3A14527>.

directives are assessed when the draft law is being drafted and that the results of the assessment are submitted to the Seimas together with the draft law.

Insufficient involvement of public into the legislative process, lack of publicity and transparency

The Seimas launched a new Legislative Information System for publication of documents related to the legislative process in 2013, i.e., the system containing legislative initiatives, draft legal acts and accompanying documents, legal regulation monitoring documents, etc.¹⁸ The Ministries failed to publish 98 % of legislative initiatives, 65 % of legal regulation monitoring documents, 39 % of legal regulation monitoring plans for the period of 2014–2016. This particular system enables all persons to load their proposals for announced and published draft legal acts. However, this opportunity is rarely used. The public has submitted proposals only for 8 % of draft laws drawn up by the Ministries.

11 (out of 14) Ministries lack of information about other ways to consult public or about their application. Due to the lack of consultations in the process of drafting legal acts, the major part of expectations of civil society and public remains unheard and the opportunity to form favourable public attitude to changes in the legal regulation is missed. Consultations are adjourned to the Seimas, thus the legislative processes are prolonged and the workload of the Seimas Committees is increased. The public submits to the Seimas Committees around 4 thousand proposals for the consideration of draft laws (2014-2016) annually.

Changes during the Audit

The Government specified the Rules of Procedure of the Government¹⁹ in 2017 in order to improve the legislative process and established particular measures to strengthen the control of drawing up of draft legal acts.

In order to implement the recommendation of the Organisation for Economic Co-operation and Development to introduce an *ex-post* evaluation of legal regulation in Lithuania, at the initiative of the Government and the Ministry of Justice, the Law Institute carried out a study in 2017 on the prospects for *ex-post* evaluation of legal regulation in Lithuania.

Having assessed the evidence collected during the audit, we hereby present our conclusions and recommendations for the proper implementation, which would contribute to a creation of a unified, coherent, sustainable, and effective legal system as well as an efficient and smooth execution of legislative process.

The audit was carried out in accordance with the Public Audit Requirements and the International Standards of Supreme Audit Institutions. A scope and methodology of the audit are described more thoroughly in Annex 1, "Audit Methodology and Scope" (page 40).

Conslusions

The implementation of the legislative process does not provide proper conditions for the creation of a unified, coherent, sustainable, and effective legal framework, as the adequacy of the existing

¹⁸ The Law on Legislative Framework, Article 5(2).

¹⁹ Rules of Procedure of the Government approved by the Government Resolution of 1994-08-11 No. 728.

legal framework is not assured and responsible law-making is not always ensured in the drafting and adoption of legislation:

1. Fragmented and low-quality regulatory monitoring does not provide information on the necessity, appropriateness, adequacy, effectiveness of the existing regulatory framework, and therefore does not allow for targeted and consistent improvement of the existing regulatory framework and adequate responses to the changes that are taking place in different areas of society. There is a lack of coordinator/facilitator for the regulatory assessment process, who would bring together the competences of all institutions to assess the appropriateness of the regulatory framework and identify the need for its modification (Section 1).
2. There is no effective system for assessing the impact of the envisaged regulation: The Ministries' staff lacks training and knowledge in the field of impact assessment, and the existing control mechanism does not ensure that the information supporting the results of the impact assessment is properly carried out and submitted to the Seimas. As a result, the adoption of the law often reveals legislative loopholes and the negative consequences of regulation (Section 2.1).
3. The abundance of draft laws submitted to the Seimas and the particularly frequent use of the urgency or extreme urgency procedure for the consideration of draft laws reduce the time allowed for the consideration of draft laws, which does not allow to create conditions for proper legal regulation and minimises opportunities to ensure transparency and publicity of the legislative process, as not all the stages inherent in the ordinary procedure for the consideration of draft laws apply, and the possibility for interested parties to take part in the legislative process is reduced (Sections 2.2 and 2.3).
4. Insufficient involvement in the legislative process of public groups subject to legal regulation, leading to misunderstandings of their views on the envisaged legal regulation, solutions to problems and expectations. The legislative process lacks publicity and transparency. Incomplete and insufficient information is published in the Legislative Information System of the Office of the Seimas (Sections 2.5, 2.3 and 2.1).
5. Delays in the drafting of legislation transposing EU directives into national law have leads to inadequate compliance with obligations of the Republic of Lithuania in the EU. When drafting the above-mentioned legislation, the choice of the solution that is in the best interest of Lithuania is not always assessed (Sections 2.4 and 2.1).

Recommendations

To the Board of the Seimas of the Republic of Lithuania

In order to ensure that sufficient time is allowed for the drafting and publishing of laws and that the urgency and extreme urgency procedure is used only in exceptional cases, where unforeseeable social, economic or political circumstances of a country so require, we recommend to define clear and precise criteria, according to which the Seimas could consider draft laws applying the urgency and extreme urgency procedure and decide on the deadline applicable to the submission of the opinion of the Government on the relevancy of proposed changes in the draft law under consideration and to include these criteria into the Seimas Statute (Conclusion 3).

To the Government of the Republic of Lithuania

1. In order to improve the existing legal framework in a coherent and targeted manner and to make effective use of human resources for this purpose, we recommend to reform the regulatory monitoring framework in such a way as to bring together the competences of the different institutions to carry out regulatory assessments and move from fragmented regulatory assessments to systematic assessments of relevant and problematic areas (Conclusion 1).
2. In order to ensure the timely and proper preparation of draft legislation in the best interest of public and state:
 - 2.1. To reform the impact assessment system in order to ensure an appropriate assessment of the potential consequences of the envisaged legal regulation on persons or groups of persons subject to the envisaged legal regulation, as well as its effect on the economy, state finances, social environment, public administration, level of corruption, administrative burden and other areas and submission of the assessment results and the underlying documents to the legislator (Conclusion 2).
 - 2.2. Put in place measures to ensure timely preparation of legislation aligning the national legal framework with EU law, after the assessment of all transposition options (Conclusions 5 and 2).
 - 2.3. To establish procedures and ways for public consultation (Conclusion 4).
 - 2.4. To ensure that the Legislative Information System of the Office of the Seimas contains all information required, as defined in the Law on Legislative Framework of the Republic of Lithuania (Conclusion 4).
3. In order to create the necessary conditions for the improvement of legislative process, to ensure the documentation, compilation and filing of data directly related to the legislative process (Conclusion 2).

A plan for the implementation of the recommendations is provided in the section titled, "Plan for the Implementation of Recommendations" (Page 37).

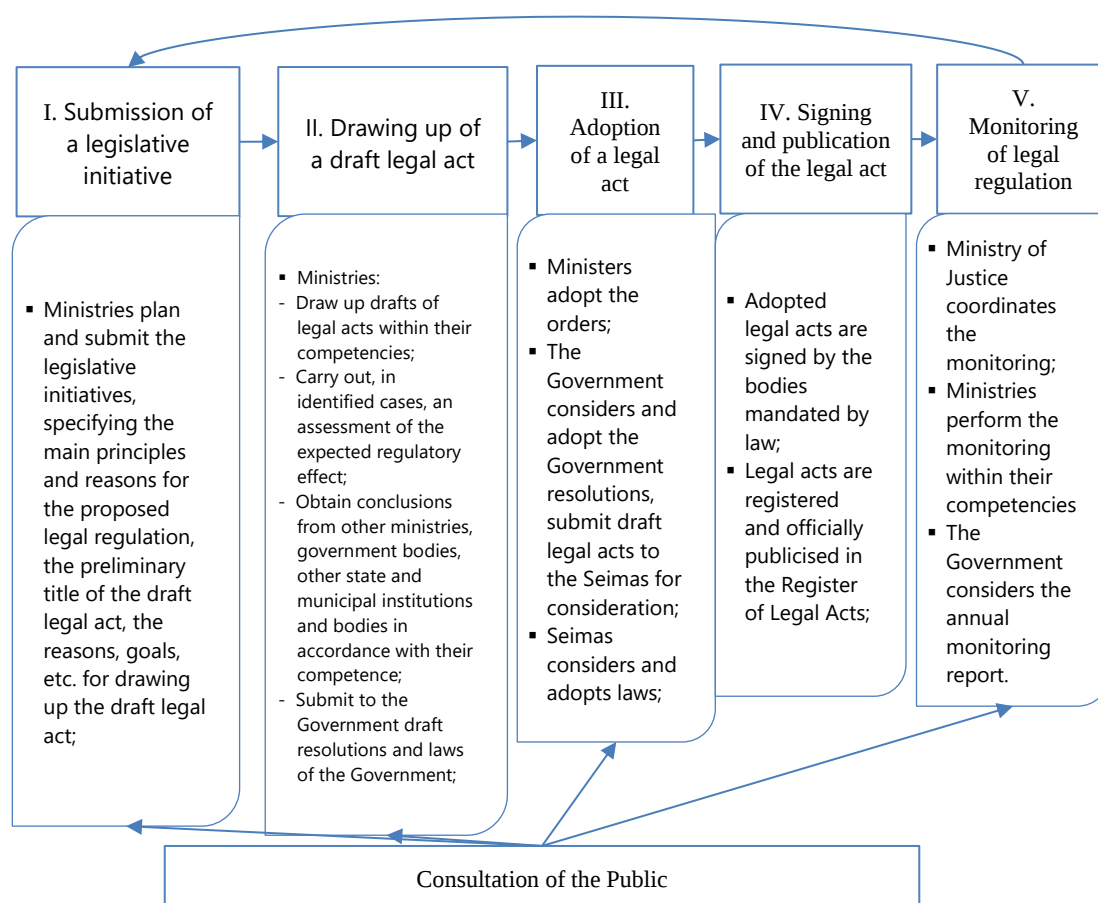
INTRODUCTION

Legislative process is the process encompassing submission of legislative initiatives, drafting legal acts, adoption, signing, and publication of legal acts²⁰ in order to create a consistent, coherent, and effective legal system.

The Ministry of Justice is responsible for shaping, coordination and monitoring of implementation of the state policy in the area of development of national legal system, regulation of legal processes, including also the legislative process²¹.

The legislative process is regulated by the Constitution, the Law on Legislative Framework, the Seimas Statute, and other legal acts. The ministries, Government, Seimas, the President participate in legislative process (Fig. 1).

Figure 1 – Legislative process



Source: Supreme Audit Institution according to legal acts

Based on the judicial power, legal acts are subdivided into laws and regulations implementing laws. Laws are legal acts issued in accordance with the procedure laid down in the Constitution and the Seimas Statute governing the protection of human rights and freedoms, property,

²⁰ The Law on Legislative Framework, Article. 2 (5).

²¹ Regulations of the Ministry of Justice approved by the Government Resolution of 1998-07-09 No. 851 (As last amended by Resolution of 2010-10-13 No. 1464), para 7.

management, use and disposal of state and municipal property, civil service, tax and other essential legal relationships.

Other legislation, such as: Government resolutions, ministerial orders, are implementing laws and are designed to implement laws. This legislation must be adopted in accordance with the law and must not contradict it. Where laws are amended, the legislation implementing the laws in question must also be amended.

According to the data provided by the Ministries tasked with shaping public policies, they produced on average between 2014 and 2016 almost 1 thousand laws, 2 thousand Government resolutions and more than 8 thousand draft ministerial orders each year.

In order to ensure proper legal regulation, the process of drafting legislation in ministries must be based on the monitoring of legal regulation, assessment of the effect of the envisaged legal regulation and public consultation.

The President of the Republic, Members of the Parliament, the Government and 50 thousand citizens with electoral rights have the right to submit draft laws to the Seimas for consideration²². In the period between 2008 and 2012, and between 2012 and 2016, 4 thousand draft laws were submitted to the Seimas, a third more than between 2004 and 2008. Once adopted, the laws shall be signed and published by the President of the Republic.²³

Monitoring of legal regulation should be carried out in order to assess the necessity, sufficiency, effectiveness, and the need to amend or repeal the legal act. State and municipal institutions and bodies²⁴ are entrusted with the task of carrying it out, and the Ministry of Justice²⁵ is responsible for coordinating it.

²² Constitution of the Republic of Lithuania, Articles 68, 94(5).

²³ Ibid, Article 84(24).

²⁴ The Law on Legislative Framework, Article. 24 (1)

²⁵ Regulations of the Ministry of Justice approved by the Government Resolution of 1998-07-09 No. 851 (As last amended by Resolution of 2010-10-13 No. 1464), para 8.9.

AUDIT RESULTS

Legal regulation means a type of social regulation in which public relations are affected by rules of law. Legal regulation must always be clear and must not lead to ambiguity²⁶. Thus, legislation should not contain provisions allowing for subjective interpretation of the rules and the adoption of decisions in breach of the law, as breaches of the law are subject to legal liability measures²⁷.

According to the data of the Register of Legal Acts (2018-01-17), there are 84 thousand legal acts in effect in Lithuania: 8 thousand laws, 32 thousand Government resolutions, and 44 thousand Ministers' orders. From the 8 thousand laws in effect, 22% consist of primary (original) laws and the rest (78%) are the amendments of the primary (original) laws²⁸.

Lithuania is attributed to the countries passing a small number of original laws, as compared to the rest of the European Union, with the highest average number of adopted laws per year, but with the lowest number of original laws (creating a fundamentally new regulatory framework)²⁹.

It was identified that some of the laws were amended more than 30 times (Table 1).

Table 1 - The number of amendments to the laws

The title of the law	The date (year) of the law	The number of amendments to the law (Up to 2018-01-16)
Law on Civil Service	1999	108
Law on Personal Income Tax	2002	72
Law on Alcohol Control	1995	56
Law on Value Added Tax	2002	53
Law on Public Procurement	1996	37
Law on Construction	1996	38
Law on Territorial Planning	1995	34

Source: Supreme Audit Institution according to the data of Register of Legal Acts

Between 2012 and 2016, 78 recast laws were adopted, of which as many as two-thirds (53) were amended until 2017-10-10. Half of them (27) have been changed from 3 up to 8 times. One of the reasons for the legislative change was to address the shortcomings of the existing legal regulation in effect.

Laws are implemented through the Government resolutions and Ministers' orders (hereinafter referred to as – implementing legislation), therefore, when laws are amended, there is often a need to amend their implementing legislation as well.

At government meetings in 2017, as many as 45 % of the draft legal acts (out of the total of 710 drafts amending legislation) were considered in less than one year after the previous draft amendment of the same legislation³⁰.

In order to achieve a unified, coherent, sustainable and effective legal framework, legislative regulation must comply with the principles of proportionality, respect for individual rights and

²⁶ Ruling of the Constitutional Court of 2000-02-10.

²⁷ Ibid.

²⁸ Data from search engine of legal acts "Infolex".

²⁹ Study by the Seimas Parliamentary Research Department "Legislative tendencies and indices in the European Member States and in Lithuania", pages 30 and 32.

³⁰ Note of the Office of the Government of 2018-01-24 "2017 Legislative Review of the Government of the Republic of Lithuania".

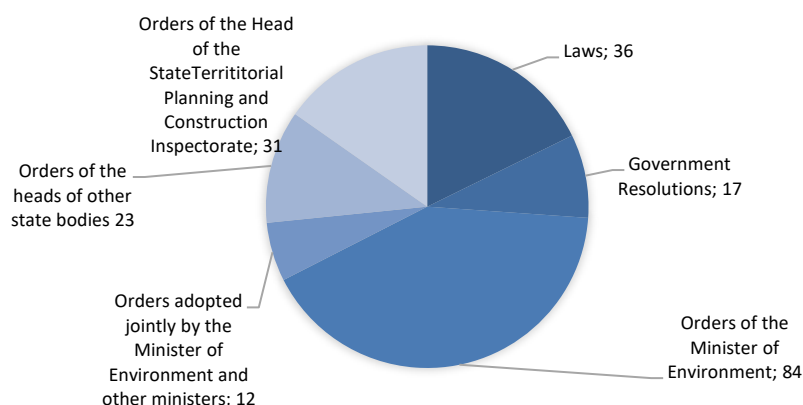
freedoms, clarity, systematicity and other legislative principles. The existing legal framework is not always in line with the above principles:

- The decisions of the Constitutional Court and the Supreme Administrative Court of Lithuania recognised that the legal regulation has contradicted the legal regulation laid down in higher legislation. Between 2014 and 2016, such decisions were made in more than half of the analysed cases (the Constitutional Court - 54 % (30 out of 56), the Supreme Administrative Court - 68 % (21 out of 31)).
- The Seimas ombudsmen, whose aim is to protect the human right to good public administration, that guarantees human rights and freedoms, and to monitor whether public bodies fulfil their duty to serve people properly³¹, received annually on average around 1.7 thousand complaints and made around 70 recommendations to amend laws or regulations that restrict human rights and freedoms in the period between 2014 - 2016.

The abundance of legal acts, frequent amendments to them, the lack of clarity in legal regulations complicates the application of the law.

For example, 203 legal acts (Fig. 2) are regulating territorial planning and construction and some of them were amended more than 30 times. (Table 1).

Figure 2 - Legal acts regulating territorial planning and construction



Source: Supreme Audit Institution based on the public data of the State Territorial Planning and Construction Inspectorate under the Ministry of the Environment ³²

Each year there are more physical and legal persons requests to provide them with consultations in the area of territorial planning and construction. In 2013 the State Territorial Planning and Construction Inspectorate provided 10 588 consultations, in 2014 – 13 300, in 2015 – 13 594, in 2016 – 16 231. There are a lot of questions about the conditions of construction permits set out in legal acts.

Often court disputes arise, concerning the decisions, relating to the territorial planning and construction. The State Territorial Planning and Construction Inspectorate, which mission is to carry out the state monitoring of the territorial planning and construction³³ submitted 214 requests/ lawsuits in 2015, 168 requests/ lawsuits in 2016 ³⁴.

³¹ Law on the Seimas Ombudsmen, Article 3.

³² Available online: <http://vtpsi.lrv.lt/lt/teisine-informacija/teises-aktai-2/teises-aktu-reguliuojanciu-ukio-subjektu-veikla-statybos-srityje-sarasas> (status 2017-10-09).

³³ Regulations of the State Territorial Planning and Construction Inspectorate under the Ministry of the Environment approved by the order of the Minister of Environment of 2003-07-09 No. 349 (As last amended by the order of 2012-06-25 No. D1-530), para 2.

³⁴ 2016 Activity Report of the State Territorial Planning and Construction Inspectorate under the Ministry of Environment, page 71.

The government aims to reduce regulation by moving away from excess legal regulation and to ensure the quality of regulation³⁵. In order to achieve these objectives in a consistent manner, the existing legal regulation should be reviewed and it should be ensured that appropriate new legal regulation is put in place.

1. WHETHER SUFFICIENT ACTION IS TAKEN TO IDENTIFY THE NEED FOR AMENDMENT, EXCESSIVE LEGAL REGULATION

In order to achieve the goal set by the Government – to reduce the legal regulation³⁶ and improve its quality, it is necessary to identify the areas of the legal regulation that require amendment or have excessive regulation.

1.1. Ineffective evaluation of the current legal regulation

Monitoring of the legal regulation means a system of measures which includes an assessment of the necessity, sufficiency and effectiveness of the regulatory framework, the actual consequences of the regulatory framework and their consistency with the intended objectives and consequences of the regulatory framework, the impact of the regulatory framework on public relations and its effectiveness, as well as the need to modify the regulatory framework³⁷.

In accordance with the Law on the Legislative Framework, the monitoring of legal regulation is entrusted to the state, municipal authorities and bodies in accordance with the powers laid down by law, and the procedure for the monitoring of legal regulation and the form of shall be laid down by an institution authorised by the Government³⁸. Government have authorised the Minister of Justice to set the procedure for performing the monitoring of the legal regulation and the form the regulatory monitoring certificate³⁹.

In the Description of the Procedure for the Monitoring of Legal Regulation confirmed by the Minister of Justice⁴⁰ (hereinafter referred to as - Description) the conditions of performing the legal regulation monitoring were set only to the state-level institutions: Ministries, institutions under the Ministries, State institutions. For the municipal institutions, the procedure and conditions of how to perform the monitoring of legal regulation are not set, therefore, they need to follow only the provisions of the Law on Legislative Framework. Based on the survey data performed by the Law institute, the municipalities have not performed the legal regulation monitoring⁴¹.

³⁵ Programme for the Improvement of Public Governance 2012–2020 approved by the Government Resolution of 2012-02-07 No. 171, para. 13.1.2.

³⁶ Programme for the Improvement of Public governance 2012–2020 approved by the Government Resolution of 2012-02-07 No. 171, para. 13.1.2.

³⁷ Law on Legislature Framework, Article 2(9).

³⁸ Ibid, Article 24.

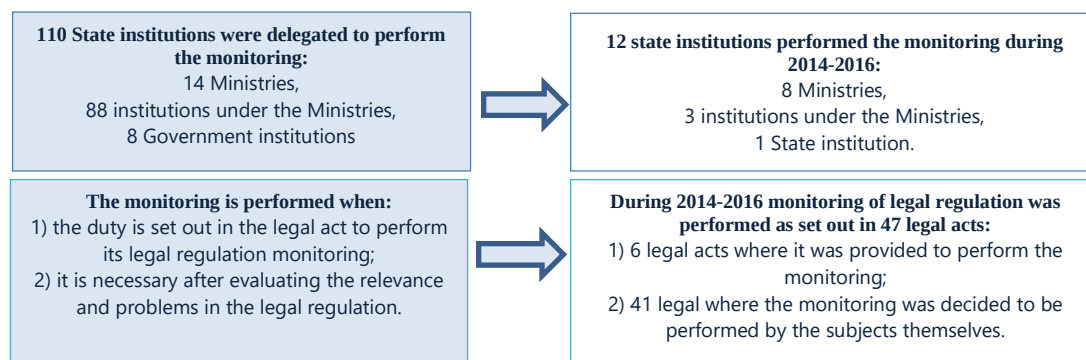
³⁹ Rules of Procedure of the Government approved by the Government Resolution of 1994-08-11 No. 728 (As last amended by Resolution of 2013-04-17 No. 337), para 124.

⁴⁰ Description of the Procedure for Performing the Legal Regulation Monitoring approved by the Order of the Minister of Justice of 2013-05-08 No. 1R-142, para 5.

⁴¹ Law Institute, "Prospects for *Ex-post* Evaluation of Legal Regulation in Lithuania", 2017, para 109. Available online: <http://teise.org/wp-content/uploads/2018/01/Ex-post3.pdf>.

According to this Description, 110 state institutions should be performing the monitoring of legal regulation⁴². It has been identified that during the 3-year period - as much as 90% of them have not performed the legal regulation monitoring (Fig. 3).

Figure 3 - The monitoring of legal regulation performed in 2014-2016.



Source: Supreme Audit Institution based on the legal acts and data supplied by the state institutions

During the 2014-2016, only 3 Ministries (Social Security and Labour, Economy, and Finance) and 1 institution under the Ministry (State Territorial Planning and Construction Inspectorate under the Ministry of the Environment) performed the monitoring of legal regulation every year. Almost half of the Ministries (Energy, Foreign Affairs, Health, Education and Science, Culture, and Transportation) have not performed the monitoring of legal regulation during the audited period. In their opinion, there was no need to perform the monitoring as no problems of legal regulation were identified within their areas of governance. Monitoring was not performed by the institutions under them as well, excluding the State Health Care Accreditation Agency under the Ministry of Health.

The arguments put forward by the Ministries regarding the lack of need are contradicted by the results of the audits carried out by the Supreme Audit Institution, which show that the problems arising from the regulation exist in various areas of public governance. It has been stated several times that the legal regulation is unclear⁴³, does not meet its objectives⁴⁴, there are excessive requirements that increase the administrative burden⁴⁵, legal acts are not consistent with provisions of other legal acts⁴⁶, create room for expansion of corruption⁴⁷ to ineffective use of the state budget funds⁴⁸. The relevance of legal regulation is also shown by the problems raised in the Seimas Committees and Commissions, in the Government, and public space.

⁴² 2016 Public sector report produced by the Ministry of the Interior. Available online: https://vrm.lrv.lt/uploads/vrm/documents/files/LT_versija/Veikla/Veiklos%20sritis/Vie%C5%A1asis%20administravimas/2016%20met%C5%B3%20vie%C5%A1ojo%20sektoriaus%20ataskaita.pdf.

⁴³ For example, 2015-07-20 report No. FA-P-10-6-10-1 "On the results of financial (regularity) audit carried out in the Ministry of Health of the Republic of Lithuania; 2014-09-01 report No. FA-P-30-1-48 "On the results of financial (regularity) audit carried out in the municipalities of the Republic of Lithuania".

⁴⁴ For example, 2016-09-30 report No. FA-P-10-3-4-1 "Regularity of 2015 set of reports and legality of the management, use, and disposal of funds and property of the National Social Insurance Fund".

⁴⁵ For example, 2016-10-10 report No. VA-P-60-9-16 "Management of the 2015 State Investment Programme".

⁴⁶ For example, 2015-09-30 report No. FA-P-30-1-32 "On the results of financial (regularity) audit carried out in the municipalities of the Republic of Lithuania"; 2017-03-03 report No. VA-P-30-1-4 "Is Housing Accessibility Assured to Low-Income Residents".

⁴⁷ For example, 2013-10-22 report No. VA-P-40-8-14 "How Do Public Bodies Carry Out Corruption Prevention".

⁴⁸ For example, 2016-11-17 report No. VA-P-40-3-23 "Organisation of Forensic Expertise".

Each institution carries out the legal regulation monitoring in accordance with its regulatory monitoring plans⁴⁹. We would point out that the Ministries and their subsidiary bodies plan monitoring separately and do not coordinate with each other the regulatory monitoring plans and the legislation included therein. The plans should be drawn up on the basis of an assessment of the relevance and problematic nature of the regulatory framework in the areas of governance assigned to them. According to the survey, two ministries did not assess the relevance and the problematic nature of the regulatory framework in the areas of governance allocated to them, while the others did not document the results of the evaluation, and were therefore unable to provide us with arguments as to why one or other legal act was chosen for monitoring.

Between 2014 and 2016, most legal acts (15 out of 47) were monitored by the Ministry of Justice, Finance, Social Security and Labour. In these, we analysed in more detail how the legislation was selected for monitoring. In these Ministries, proposals for including the legislation in monitoring plans were made by administrative units, draft monitoring plans were prepared by legal units and approved by ministers. As the regulatory monitoring plans included all the suggestions made by the administrative departments, we conclude that the validity and appropriateness of the suggestions made were not assessed. This is demonstrated by cases where monitoring has been planned for legislative acts for which draft amendments have already been drawn up and it was therefore not appropriate to carry out monitoring.

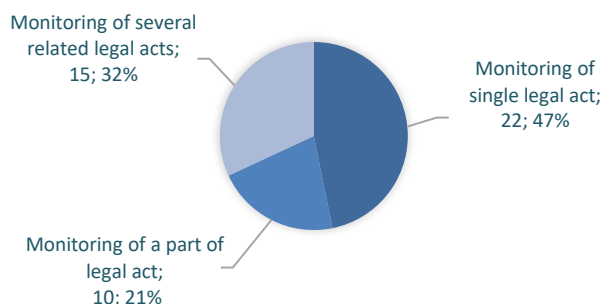
Example of legal regulation monitoring.

The Ministry of Finance have performed the monitoring of the 104¹ and 104² paragraphs of the Law on Tax Administration even though it had already made amendments of these paragraphs⁵⁰ at the start of 2014. However, it was planned to perform the monitoring and it was performed in 10 months. The monitoring concluded that regulatory changes were already included in the draft law and no further proposals for regulatory changes were made. Consequently, the resources allocated to monitoring have not been used effectively.

Scientists are of the opinion that monitoring planning often includes not the most significant legislation⁵¹.

During the period covered by the audit, legal regulation monitoring was carried out in 47 legal acts, of which as many as 68 % of cases were monitored in a single legal act or only a part of it (Fig. 4).

Figure 4 - 2014–2016 legal regulation monitoring



⁴⁹ "Description of Procedure for Performing the Legal Regulation Monitoring" approved by the Order of the Minister of Justice of the Republic of Lithuania of 2013-05-08 No. 1R-142, para 12.

⁵⁰ Law on amendment of Articles 28, 41, 55, 61, 68, 87, 89, 101, 104¹, 104², 110, 111, 129, 131, 154 of the Law on Tax Administration No. IX-2112, complementing it with the Article 55¹ and repealing the articles 56, 57, 58, 59, 60.

⁵¹ Law Institute, "Prospects for *Ex-post* evaluation of legal regulation in Lithuania", 2017.

Source: Supreme Audit Institution based on the legal acts and data supplied by the state institutions

After taking into account that in Lithuania there are more than 84 thousand legal acts⁵² (8 thousand laws, 32 thousand Government resolutions and 44 thousand orders of Ministers) in effect, monitoring of legal regulation in such scope has no significant importance for evaluating the effect of legal regulation. Ministries rarely use the way of monitoring set out in the Law on Legislature Framework - to evaluate legal regulation set out in several legal acts⁵³, therefore, the systemic evaluation of legal regulation was not performed in their areas of governance.

Example of legal regulation monitoring.

The Ministry of Finance in 2015 carried out the monitoring of one article of the Law on Tax Administration that regulates the methods of forced recovery of tax arrears and found that the regulatory framework is optimal and that there is no need to change it. In the absence of an overall assessment of the legal framework laid down in the law, the other provisions of the law to be amended have not been identified. That law was amended 7 times between 2015 and 2017 July 1.

The high quality of the monitoring carried out should make it possible to ascertain the appropriateness of the regulation and to identify the need for its modification. The Law Institute, in its assessment of the monitoring exercise, found that "the monitoring of legal regulation is carried out only in a superficial manner, but not in order to clarify the actual impact of the legislation. Such monitoring is pointless and generates only additional costs that create very low benefit or any benefit at all"⁵⁴. Out of the 37 monitoring certificates produced by ministries, only one has been identified, where almost all regulatory monitoring criteria have been reviewed and assessed, 14 certificates have been allocated to regulatory monitoring certificates that have been drawn up at least as acceptable, and 24 certificates (i.e. around 60 %) do not meet the quality requirements⁵⁵.

Lithuania is the member of the European Union, therefore, it should be important to not only improve national legal acts but also participate in evaluating the appropriateness of the EU legal regulation and submit offers to improve it.

We draw attention that that there is no monitoring of legislation transposing or implementing EU law. With a view to a systematic approach to assessing the quality of EU legislation, the Committee on European Affairs of the Seimas proposed in 2017 that the Seimas Committees monitor the impact of the implementation of EU legislation⁵⁶.

A proper selection of relevant regulatory areas for monitoring and quality monitoring would allow the identification of regulatory areas to be changed. Systematic regulatory assessments would provide an opportunity to identify directions, principles and measures for reduction of legal regulation.

⁵² The data of laws in effect, Government Resolutions, and orders of Ministers are provided. Following the Article 6(2) of the Law on Legislature Framework, other legal acts are also registered in the Register of Legal Acts, e.g., normative legal acts of municipal institutions.

⁵³ Law on Legislature Framework, Article 23(2)

⁵⁴ Law Institute, "Prospects for *Ex-post* evaluation of legal regulation in Lithuania", para 110.

⁵⁵ Ibid, para 108

⁵⁶ Seimas Committee on European Affairs meeting minutes, 2017-02-22, No. 100-P-18.

1.2. There is a lack of coordinator for the regulatory assessment process, bringing together the competences of all public authorities to achieve a common objective

The Government has entrusted the Ministry of Justice with the task of coordinating regulatory monitoring⁵⁷. The Ministry is responsible for submitting proposals to the regulatory monitoring bodies for the inclusion of a certain regulatory framework in the monitoring plans, as well as for submitting to the Government, where appropriate, a draft order entrusting regulatory monitoring⁵⁸. It was established that between 2014 and 2016 the Ministry did not make such proposals on the grounds that no such need was identified (Fig. 5)

Figure 5 – Responsibilities of the Ministry of Justice in coordination of the legal regulation monitoring



Source: Supreme Audit Institution according to the legal acts and data of the Ministry of Justice

The Ministry of Justice is required to summarise the results of the monitoring carried out during the previous calendar year on the basis of the certificates provided by the monitoring entities and to submit to the government annual regulatory monitoring reports. Between 2014 and 2016, the Ministry submitted annual reports to the Government, summarising information on the basis of monitoring certificates drawn up by the public authorities. The Government concurred with the information contained in the reports and merely pointed to the need to comply with the legislation on regulatory monitoring⁵⁹. Thus, the Ministry of Justice's action in the field of monitoring, as the coordinating body for monitoring, was limited to gathering information and drawing up an annual report.

The Law on Legislature Framework provides that monitoring shall include an assessment of the impact of regulatory regulation on areas other than the regulated area, including administrative burden. We emphasise that the measurement of the administrative burden of existing legislation for economic operators is governed by the Law on Reducing Administrative Burdens and the Methodology for Identifying Administrative Burden for Economic Operators⁶⁰. This falls within the remit of the Ministry of the Economy, which is responsible for formulating State policies to improve competitiveness in the areas of administrative burden reduction, simplification of

⁵⁷ Rules of Procedure of the Government approved by the Government Resolution of 1994-08-11 No. 728 (As last amended by Resolution of 2013-04-17 No. 337), para 124.

⁵⁸ Description of the Procedure for the Legal Regulation Monitoring approved by the Order of the Minister of Justice of 2013-05-08 No. 1R-142, para 20.

⁵⁹ Government meeting minutes of 2015-04-07 No. 18 and meeting minutes of 2016-03-16 No. 17.

⁶⁰ Approved by the Government Resolution of 2012-01-11 No. 4.

legislation, improvement of the quality of regulation, and for organising, coordinating and monitoring its implementation⁶¹.

The determination of the administrative burden on natural persons is governed by the Methodology for Identifying and Assessing the Administrative Burden on Citizens and other Persons⁶². This falls within the remit of the Ministry of the Interior, which is responsible for providing methodological assistance with regard to the identification and measurement of this administrative burden⁶³. The provisions of the Law on Legislature Framework on monitoring do not refer to legislation on the assessment of administrative burden.

In the opinion of the scientists, there is also no coordination of institutional competences between the Ministry of Justice, the Ministry of the Interior and the Ministry of the Economy⁶⁴. The relationship between the determination of the administrative burden and the content of the regulatory assessment is also unclear⁶⁵.

Consolidating the roles of different authorities and pooling competences across different areas of governance would allow for the identification of systemic regulatory problems and a more efficient use of public resources.

2. WHETHER RESPONSIBLE LEGISLATION IS ENSURED?

2.1. No assessment or superficial assessment is carried out of the possible consequences of the proposed regulation when introducing new or amending existing regulation

In order to establish a coherent, consistent, unified, and effective legal framework, the entity preparing a draft legislative act must be guided by the legislative principles⁶⁶ and by the requirements laid down for the form, structure, content and language of the draft legal act⁶⁷. Draft legislation must be subject to an assessment of the impact of the envisaged regulation, assessing all possible alternatives to regulation and selecting the best of them⁶⁸. The resulting draft legislation, together with the accompanying documents, is registered in the Legislative Information System of the Office of the Seimas and submitted for consultation to the relevant authorities. The draft legislative act, in agreement with the institutions concerned, shall be submitted to the legislative entity.

The expected impact of regulation must be assessed when it is intended to regulate previously unregulated relationships, as well as when there is a substantial change in the legal regulation, in order to determine the possible positive and negative consequences that the envisaged legal

⁶¹ Regulations of the Ministry of Economy approved by the Government Resolution of 1998-07-23 No. 921 (As last amended by the Resolution of 2015-04-08 No. 359), para 7.2.

⁶² Approved by the Government Resolution of 2011-02-23 No. 213.

⁶³ Government Resolution of 2011-02-23 No. 213, para 3.1.

⁶⁴ Law institute, "Prospects for *Ex-post* evaluation of legal regulation in Lithuania" 2017, para 111. Available online: <http://teise.org/wp-content/uploads/2018/01/Ex-post3.pdf>.

⁶⁵ Ibid, page 110.

⁶⁶ Law on Legislature Framework, Article 3.

⁶⁷ Ibid, Article 9(1).

⁶⁸ Ibid, Article 3, part 2 (5).

regulation will have for the relevant area of regulation, for the persons or groups of persons to whom it will apply⁶⁹. The impact on the economy, public finances, the social environment, public administration, the legal framework, the criminogenic situation, the scale of corruption, the environment, administrative burden, regional development and other areas must be assessed, taking into account the nature and extent of the new regulatory framework envisaged by the legislation⁷⁰.

In accordance with the Seimas Statute⁷¹ the draft law submitted to the Seimas must be accompanied by an explanatory note stating:

- The possible negative consequences of the adoption of the law and what measures should be taken to avoid such consequences;
- How the adoption of the law will have an impact on the criminogenic situation, corruption;
- How the implementation of the law will have an impact on business conditions and its development;
- How much funding from the state budget, municipal budgets and other funds set up by the state will be needed to implement the law, and whether savings can be made.

The explanatory notes may contain other necessary justifications and explanation⁷². We have noted that the drafter of the draft law is not obliged by the Seimas Statute to submit, together with the draft legislation, the possible alternatives to legal regulation assessed, although in accordance with the Law on Legislature Framework, all possible alternatives must be assessed when drawing up draft legislation aligning Lithuanian national law with European Union law and a solution is chosen that is in the best interest of Lithuania⁷³. In other cases, when drafting legislation, such an assessment should be carried out by the drafter in accordance with the principle of effectiveness laid down in that law⁷⁴. The presentation of the results of the impact assessment of the envisaged regulation and the assessment of possible regulatory options would allow the legislator to consider the proposed options and would help to identify the best legal regulation in line with the expectations of the public and the State.

In order to determine whether the results of the impact assessment of the envisaged regulation and possible alternatives to the regulation were presented to the Seimas together with the draft law, we analysed a random sample of 10 %. (8 out of 78) accompanying documents to the draft recast laws adopted by the Seimas between 2012 and 2016. A new version of the law is drawn up when more than half of its articles are amended⁷⁵, so we considered that the selected laws were subject to a substantive change in the regulation and required an assessment of the impact of the envisaged regulation and an assessment of possible alternatives to the regulation. The accompanying documents to the draft laws analysed (listed in Annex 2) do not contain any possible regulatory options and the assessments of the expected regulatory impact in certain areas are not only unjustified, but also unsubstantiated (Table 2).

⁶⁹ Ibid, Article 15, part 1.

⁷⁰ Ibid, Article 15, part 2.

⁷¹ Seimas Statute, Article 135, part 3 (5-7) and part 12.

⁷² Ibid, Article 135, part 3(15).

⁷³ Law on Legislature Framework, Article 9(2).

⁷⁴ Law on Legislature Framework, Article 3, part 2(5).

⁷⁵ Ibid, Article 14, part 3.

Table 2 - The results of the impact assessment provided by the drafters in the accompanying documents and information on the regulatory alternatives assessed

Information to be included in documents accompanying 8 draft laws	Assessment referred to by the drafter of the draft law in a number of accompanying documents
The possible negative consequences of the adoption of the law and the measures to be taken to avoid such consequences.	Not envisaged (6 out of 8 documents).
What impact the adopted law will have on the criminogenic situation, corruption.	Laws will have no impact on the criminogenic situation (7 out of 8 documents) and on corruption (6 out of 8 documents).
How the implementation of the law will have an impact on business conditions and its development.	Implementation of laws will have no impact on business conditions and its development (7 out of 8).
How much state, municipal budgets and other funds set up by the state will be needed to implement the law or whether savings can be made.	There will be no need for additional state budget funding for the implementation of provisions proposed in draft laws (5 out of 8 documents).
Possible alternatives to regulation have been assessed.	Possible legal regulations alternatives were not identified.

Source: Supreme Audit Institution based on the legal acts and explanatory notes of the Ministries

The laws examined included a draft law amending and supplementing the Law on Construction. It proposed changes to the rights, obligations and responsibilities of the developer/contractor, the contractor and the expert contractor for the construction work being carried out, some aspects of the preparation of the construction project and the issuing of the conditions of connection, etc. The drafter stated in the accompanying documents that the implementation of the law will not have negative consequences; business will be facilitated; no additional funds from the state budget will be needed to implement the law. It is not justified as the drafter of the law considered that business facilitation would be facilitated. Information has also not been provided on how it was assessed that the simplified procedures for issuing building permits and the reduced number of coordinating bodies will not have an impact on corruption.

Some of the explanatory notes contain an assessment that the implementation of the adopted law will require a certain amount of funds, but there is no information on the basis of which data and the methodology used for the calculations.

Example of an assessment of the expected impact of the regulation

The additional budgetary needs of the State Social Insurance Fund for the implementation of the provisions proposed in the draft Law on Social Insurance for Sickness and Maternity would amount to approximately EUR 1.6 million per year (about EUR 0.5 million due to more flexible parental leave arrangements and EUR 1.1 million due to the extension of sickness benefits).

Without a proper assessment of the expected regulatory impact and/or failure to submit a reasoned impact assessment to the Seimas, there is a presumption of inefficient use of legislative resources.

Example of an assessment of the expected impact of the regulation

The Seimas 2015-06-30 adopted the Law amending the Law on Declaration of Residence, which amended the declaration procedure. The accompanying documents contained an assessment by the drafter of the law that no negative consequences were expected.



On two occasions 2016-05-05 and 2016-11-08, the entry into force of part of the implementing provisions of the Law was postponed, as it appeared that, following the entry into force of the amendments to the Law, some 100 persons could remain in addition to social and other services, who declared their place of residence near the municipality. As they do not contact the institution of the place of residence in order to change/adjust the address of the declared place of residence, they will neither be declared nor entered in the accounts, which will, for example, result in the loss of entitlement to social benefits, the queue of social housing, etc.



In order to address the problems of declaration of residence, the Seimas 2017-12-21 adopted a new version of the Law on the Declaration of Residence. The purpose of the adopted law is to simplify the declaration of residence and to make it possible for persons who, for reasons not attributable to them, are unable to declare their place of residence, by substantiating their economic, social or personal interests in a given municipality and indicating their actual place of residence in a given municipality, to be entered in the accounts of persons who have not declared their place of residence according to the municipality in which they reside.

In order to determine whether, together with the draft laws transposing EU Directives, information on possible alternatives to transposition and their assessment has been submitted to the Seimas, we have selected six Directives for analysis (listed in Annex 3). We found that the above-mentioned EU Directives provided an option to transpose certain provisions into national law, but that the options were not assessed when transposing the Directives into national law.

Among the documents we analysed was a draft law transposing Directive 2014/17/EU⁷⁶, which aims to ensure that consumers benefit from a high level of protection when credit agreements relating to immovable property are concluded. This Directive lays down: the information to be provided by creditors to consumers prior to the conclusion of the credit agreement; the obligation for creditors to assess the creditworthiness of the consumer; the formula for calculating the annual percentage rate of charge; standards for advisory services; and others. The Directive gives Member States the option of applying the provisions of the Directive to short-term loans. The drafter opted for the provisions of the Directive to be extended to short-term loans, and indicated in the accompanying documents that the option provided for in the Directive would not be used to strengthen consumer confidence in the market and to protect consumer interests. The chosen regulatory model does not provide an assessment of the possibilities for transposition and therefore does not allow the legislator to ascertain, on the basis of the documents submitted, that the best solution is proposed.

We pointed out that the Department of European Law has issued guidance on the implementation of European Union legislation in national law and the assessment of the reasonableness of administrative burden on 3 March 2015. One of their objectives was to help drafters to choose the most appropriate alternatives for the implementation of EU law, with the lowest possible administrative burden on economic operators⁷⁷.

⁷⁶ Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 Text with EEA relevance (OL 2014, L 60, para 34).

⁷⁷ Recommendations of the implementation of the European Union legal acts in the national law and the evaluation of the administrative load justification, page 4.

In order to determine why the documents accompanying the draft laws do not always contain positive and negative information justifying the consequences of the envisaged regulation and possible alternatives to the regulation, we analysed how the Ministries are preparing the draft legislation. We interviewed all Ministries and analysed in 2 Ministries (Finance and Social Security and Labour) how the preparation of draft legislation and the assessment of the expected impact of legal regulation are organised. An instrument for assessing the impact of the envisaged regulation has been foreseen in the legislative process since 2003. The legislation provides for which areas and when the consequences of the envisaged regulation are to be assessed, but so far there is no effective framework for carrying out and monitoring impact assessments because:

- Ministry staff lack training and knowledge to carry out impact assessments of the expected regulatory impact. According to the results of the inter-ministerial survey, around 2 000 staff were actually employed in Ministries during the period audited to prepare/participate in drafting legislation. The persons concerned must carry out an impact assessment of the intended regulatory effects when the draft legislation is being prepared. Only around 10 % of staff received training in drafting legislation during the audit period. A majority of ministries (11 out of 14) reported a lack of training for their staff on how to carry out an impact assessment of the envisaged legal regulation. 4 out of 14 ministries indicated that it was not always clear to them for which areas the impact of the envisaged legal regulation had to be assessed. Some of them consider that "comprehensible individual impact assessment analyses are not possible for the drafter, as the drafter is not a specialist in all fields and it would be too time-consuming. Impact assessments are often outside the drafter's remit." The auditors' assessment is that it would be inefficient and inappropriate for the State to ensure the training and qualification of a number of professionals who would carry out a proper assessment of the expected impact of the regulation. In most ministries (9 out of 14) there is no planning or documentation of the legislative drafting processes, which makes it impossible to ascertain whether an assessment of the impact of the envisaged regulation has been carried out and to assess how it has been carried out, i.e. whether the methodology for assessing the impact of the envisaged regulation has been followed⁷⁸, how much time has been devoted to assessing the impact and in which areas the impact has been assessed, whether the public has been consulted, which impact assessment procedures have been carried out and which methods have been used. In line with the Quality Management System⁷⁹ as a good practice, institutions should focus on describing processes and structuring and analysing process-related data. This would help organisations to ensure the validity of the decisions taken. The failure to document these processes in ministries does not allow for proper control of the legislative drafting processes and for finding ways to improve them. It would also help to make the process of harmonising draft legislation more constructive.

Example of an assessment of the expected impact of the regulation

The Legal Department of the Office of the Government, having assessed the draft legislation drawn up by the Ministry of Defence with a view to carrying out functional and structural reorganisations of the institutions subordinate to the Ministry, implementing communication and information systems policy and cyber security policy, by relinquishing statutory civil

⁷⁸ Methodology for the Assessment of the Envisaged Effect approved by the Government Resolution of 2003-02-26 No.276.

⁷⁹ Available online: <https://www.iso.org/files/live/sites/isoorg/files/archive/pdf/en/pub100080.pdf>.

servants in the Centre for Governmental Communications, stated in its Opinion⁸⁰ of 2017-11-14 that the explanatory note should contain information on such statutory civil servants who are subject to a change of status, assessing the need for state budgetary resources (in the absence of statutory compensation; how much budgetary savings will be made as the public budget will need less money to pay public pensions for officials and soldiers) and others.

- Drafters of legal acts do not submit drafts for coordination to all interested institutions with relevant competencies.

Example of coordination of the draft law

The explanatory note drawn up by the Ministry of the Interior stated that there will be no need for additional allocations of funding in relation to the draft Law on Civil Service. At the time of the coordination of the draft law the Ministries of Justice and Finance pointed out that the draft might require funds and that it was not agreed with the Department of the Civil Service. These comments have not been taken into account by the Ministry of the Interior. Seimas rejected the draft Law on Civil Service submitted by the Government on 2017-07-04⁸¹ on the grounds that submitted information on the possible effect to the state budget was inaccurate and the draft was not coordinated with the Civil Service Department.

- An ineffective quality assurance system. In the context of the coordination of draft legislation, the institutions concerned, within their respective competences, draw conclusions from the impact assessment carried out and its results in terms of individual areas of impact assessment: The Ministry of Finance is responsible for the impact on public finances; Ministry of the Interior – impact on the administrative burden for citizens and other persons, state and municipal institutions and bodies; Ministry of Economy – impact on the economy; other ministries/institutions for other areas within their remit. The existing framework for the control and quality supervision of draft legislation does not always ensure an assessment of the expected impact of the regulation in all areas to be addressed, taking into account the comments and suggestions made by the stakeholders and assessing possible alternatives to the envisaged regulation. This presupposes that drafters of legislation do not assess or formally assess possible alternatives to the legislation, that the results of the impact assessment are not based on data and arguments, that they do not provide sufficient information on the consequences of the envisaged legislation. At the time of the audit, 4 out of 14 ministries indicated that they considered the assessment of the impact of the envisaged legal regulation to be a formality. That the drafters of the legislation regard the assessment of the impact of the envisaged legal regulation as a formality, noted by the Organisation for Economic Co-operation and Development and the Ministry of Economic Affairs⁸².

We would point out that there is also a lack of control measures to ensure that, when national law is aligned with EU law, possible alternatives are assessed and chosen as the solution⁸³ best suited to Lithuania's interests. As early as 2013, the European Law Department, together with the Ministry of Justice, had to prepare draft legislative amendments to ensure that the national legal system was brought into line with EU law, after considering all possible alternatives and choosing from

⁸⁰ Conclusion of the Office of the Government of 2017-11-14 No. NV-2891 "Regarding the Amendment of Articles 2,4,6,10,15,16,18 of the Law on Cyber Security of the Republic of Lithuania No XII-1428, Repeal of the Article 8 and Complementing the Law with the Annex of the draft law and drafts of other laws".

⁸¹ Draft Law No. XIII-624(2) on the Amendment of the Articles 9, 10, 11, 13, 14, 23, 26, 32, 33, 41, 43, 44, 45, 48, 49 of the Law on Civil Service No. VIII-1316.

⁸² OECD survey, available online: http://www.keepeek.com/Digital-Asset-Management/oecd/governance/regulatory-policy-in-lithuania_9789264239340-en#V.T3oCTZYlo#page3; Report of the Ministry of Economy of 2015-08-28 "Introduction of Effect Assessment of Decisions and their Projects", para 106.

⁸³ Priority Measures for the Implementation of the Government Programme for 2012–2016 approved by the Government Resolution of 2013-03-13 No. 228, para 376.

them a solution that was in the best interest of Lithuania, but did not prepare them⁸⁴. The European Law Department is tasked with drawing conclusions on the conformity of draft laws and government resolutions with EU law⁸⁵, but is not tasked with overseeing the assessment of possible alternatives when drafting legislation transposing and implementing EU legislation.

A large number of institutions are involved in the preparation of draft legislation. However, the Legal Department of the Office of the Seimas considered that some of the draft laws submitted by the Government to the Seimas had not been drawn up properly.

Example of a draft law not properly drawn up

- In 2015, the Ministry of Economy drew up a draft Law on Concessions⁸⁶, which was prepared for approximately 9 months (from March 2015 to December 2015).
- The draft law was coordinated with 18 interested institutions (of them 13 Ministries), lasting around 8 months (December 2015 to August 2016).
- The Legal Department of the Office of the Government (53 comments and proposals) and the Economics Division of the Economic Development Department of the Office of the Government also submitted conclusions on the draft law. The Government considered the draft for around 3 months (August 2016 to November 2016).
- As regards the draft law submitted to the Seimas, which was approved by the Government, the Legal Department of the Office of the Seimas submitted comments indicating that: "The legal framework laid down in the draft is imprecise, incomplete, fragmented and unclear, is not compatible with other laws and is not drawn up in accordance with the technical rules of law and the requirements of the common Lithuanian language."

Changes during the audit:

The Government has taken steps to improve the drafting of legislation. In 2017-07-18 amendments to the Government's Rules of Procedure were adopted to further regulate the legislative processes: If the drafter of legislation does not agree with the comments and suggestions made by the entities submitting the conclusions, they must organise a consultation between the interested authorities if the disagreements cannot be resolved by other means; The Office of the Government does not assess the draft legislation and sends it back to the authors if it has not been agreed with the authorities concerned in accordance with the procedure laid down in the Regulation.

According to the auditors, the changes initiated by the Government in the legislative process should help to improve the preparation of draft legislation, but they are not sufficient to ensure the proper preparation of draft legislation. With a view to evidence-based regulation, ministries should overhaul the system for assessing the impact of the envisaged regulation, bring together staff specialised in carrying out the impact assessment, organise their training and strengthen the monitoring of the quality of the assessment of the impact of the envisaged regulation.

When establishing a mechanism for monitoring the quality assurance of the impact assessment and the assessment of possible alternatives to regulation, it is appropriate to assess existing good practices.

In the Czech Republic, for example, all drafts submitted are subject to an impact assessment and the quality of the assessment is monitored by a specially created board. The European

⁸⁴ Note of the Strategic Planning and Monitoring Division of Office of the Government of 2016-09-05 No. NV-2775 LR "On the Review of the implementation of the priority measures of the Government's programme for 2012-2016" (S-10-2899)".

⁸⁵ Regulations of the European Law Department approved by the Order of the Minister of Justice of 2014-07-02 No. 1R-204, para 10.1.

⁸⁶ Draft Law on the Amendment of the Law on Concessions No. I-1510, registration No. 15-13306.

Commission has established a Regulatory Scrutiny Board to review and deliver opinions on the results of impact assessments.

2.2. High intensity of the legislative process

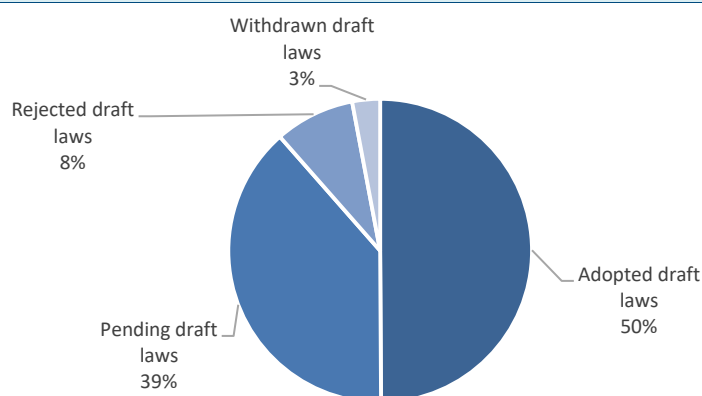
According to the data provided by the Ministries responsible for shaping public policy in the areas assigned to them, they produced, on average, between 2014 and 2016 almost 1 thousand laws, 2 thousand Government resolutions and more than 8 draft ministerial orders.

An average of 700 draft laws were submitted to the Seimas in one year, i.e. between 2 and 4 times more than to the parliaments of the neighbouring states (an average of 200 draft laws are submitted to the Estonian Parliament annually, an average of 338 in Poland, and 417 in Latvia)⁸⁷.

Between 2012 and 2016, 3 779 draft laws were submitted to the Seimas. Of these, more than half (2 200) were submitted by Members of the Seimas. The Seimas Committees received 6 292 assignments from the Seimas to draw conclusions on the draft laws, most of them (18 %) from the Committee on Law and Law Enforcement⁸⁸. This Committee was most frequently appointed (25 % of cases) as the lead committee to draw conclusions. The Board of the Seimas asked the Government to provide its conclusions on 860 draft laws. By 2017-12-04, the Government submitted 838 conclusions, of which only 3 %. (26) conclusions were submitted within the time limit laid down in the Seimas Statute. Almost 80 % of the Government's conclusions were delayed by up to 3 months. We have noted that the provision⁸⁹ of the Seimas Statute, which obliges the Government to submit its conclusions on the draft laws to the Seimas within 4 weeks, entered into force 15 years ago (2002). Since then, the legislative process has changed considerably and has become much more complex, both in terms of content and procedures, and it is therefore appropriate to address the issue of the extension of the mentioned term.

During this period, the Seimas adopted half of the draft laws submitted to it (Fig. 6).

Figure 6 - Decisions taken on draft laws registered in the Seimas in 2012-2016.



Source: Supreme Audit Institution according to public data of the Office of the Seimas

Almost a tenth (322) of draft laws were rejected by the Seimas and 83 % of them (268 out of 322) were submitted by Members of the Seimas. 85 % of adopted drafts were submitted by the

⁸⁷ Study of the Parliamentary Research Department of the Seimas of the Republic of Lithuania "Legislative tendencies and indicators in the European Union Member States and Lithuania", pages 30-31.

⁸⁸ Statistics from 2012 to 2016 in the Legislative of the Parliament. Available on-line: http://www.lrs.lt/sip/portal.show?p_r=252&p_k=1&p_t=166966.

⁸⁹ Seimas Statute, Article 138, parts 3 and 4.

Government and 30 % - by Members of the Seimas. As a general rule, the parliamentary agenda is considered rational when 90 % of the drafts are submitted by the Government and the same proportion is adopted⁹⁰.

The intensity of the Seimas legislative work is reflected in the backlog of 1 459 draft laws and the increasing number of laws adopted compared to previous periods (Fig. 7).

Figure 7 – Number of adopted laws in 2004–2016



Source: Supreme Audit Institution according to public data of the Office of the Seimas

On average, 7 laws were adopted per session, compared to 2008-2012, with 2 more laws. In quantitative terms, the legislative process has been very intense during the audited period, but a large number of laws adopted increases the risk of error.

2.3. Around 50 % of draft laws are adopted under urgency or extra-urgency procedure

At the time of submission of the draft law, the Seimas takes a decision on whether or not to initiate the procedure for considering the draft. If the Seimas decides to start considering the draft law, it may be decided whether to apply the urgency or extreme urgency procedure.⁹¹

The Seimas Statute specifies⁹² who is entitled to make proposals for the use of the urgency or extreme urgency procedure and how decisions on the application of these procedures are taken (Table 3), but does not specify the criteria or circumstances under which reasoned proposals for the urgency or extreme urgency procedure would be made. There are only exceptions where draft laws cannot be considered with as a matter of urgency and extreme urgency, namely draft laws amending the Constitution, constitutional laws and draft state budgets⁹³.

⁹⁰ Study of the Parliamentary Research Department of the Seimas of the Republic of Lithuania "Legislative tendencies and indicators in the European Union Member States and Lithuania" pages 5-6.

⁹¹ Seimas Statute, Article 143, part 4.

⁹² Ibid, Article 162, parts 2 and 3, Article 164, parts 1 and 2.

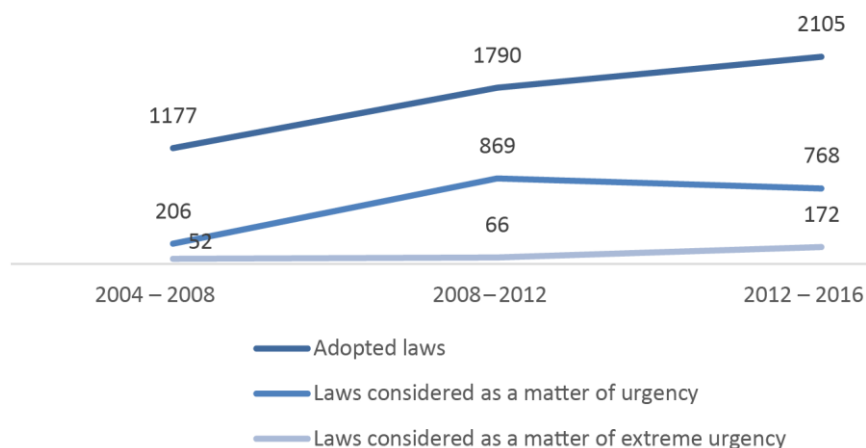
⁹³ Ibid, Article 170, part 3, article 172, part 11, Article 171³, part 3.

Table 3 - Submission of proposals for consideration of a draft law as a matter of urgency and extreme urgency

	Urgency procedure	Extreme urgency procedure
Who can submit the proposal for consideration of the draft law project as a matter of urgency or extreme urgency	- President of the Republic - Speaker of the Parliament or a deputising Vice Speaker - Opposition leader of the Seimas - Main Committee - Faction - Government	- President of the Republic - Speaker of the Parliament or a deputising Vice Speaker - Government
How decisions are taken	A majority of the Members of the Seimas who voted at a sitting of the Seimas, if it is more than 1/5 of the total number of Members of the Seimas	A majority of the Members of the Seimas who voted at a sitting of the Seimas, if it is more than 1/4 of the total number of Members of the Seimas

Source: Supreme Audit Institution according to the provisions of the Seimas Statute

The audit found that in Lithuania as much as half of all laws adopted between 2008 and 2016 consist of laws that were considered as a matter of urgency or extreme urgency. A comparison of the legislative data for the 2008-2012 and 2012-2016 periods shows that the proportion of laws considered under the urgency and extreme urgency procedure has decreased (from 52 % to 45 %) but remained high (Fig. 8).

Figure 8 - Laws considered as a matter of urgency or extreme urgency in 2014-2016.

Source - Supreme Audit Institution according to the public statistical data of the Office of the Seimas

Lithuania is distinguished from other European countries when considering draft laws as a matter of urgency and extreme urgency. For example, Finland, Sweden, the United Kingdom, and Poland adopt a maximum of 5 % of laws with this procedure⁹⁴, the neighbouring country Estonia - around 10 % and Lithuania as much as 50 %. An evaluation carried out in 2014 by the Group of States against Corruption (GRECO) noted that Lithuania's excessive use of urgency procedures for the adoption of legislation could undermine the transparency of the various stages of the legislative

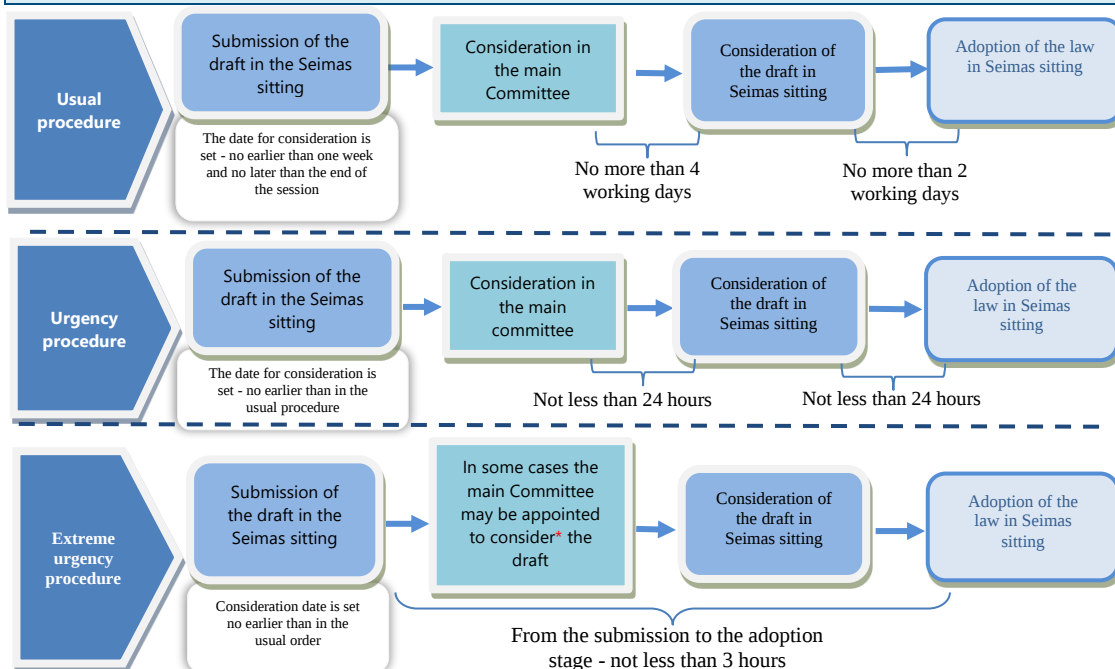
⁹⁴ Study of the Parliamentary Research Department of the Seimas of the Republic of Lithuania "Legislative tendencies and indicators in the European Union Member States and Lithuania", page 41.

process and reduce the transparency of the whole process⁹⁵, but that the draft laws are still very often considered as a matter of urgency or extreme urgency.

On the basis of an analysis of the data of 2017 spring session of the Seimas, it was found that 37.6 %. Laws (108 out of 287) were considered as a matter of urgency and extreme urgency, of which 65 % were considered on a proposal from the Government. The Government's proposals to consider draft laws under the urgency and extreme urgency procedure in 67 % of cases were motivated by Lithuania's late transposition of EU law, and other reasons: Lithuania's wish to become a member of the Organisation for Economic Cooperation and Development, the need to implement the provisions of the Government's Programme. Of the cases examined during the audit, we did not find any of the cases where the urgency procedure would be proposed taking into account the particular circumstances of the country's lives.

The urgency and extreme urgency procedure for the consideration of draft laws reduces the time between the stages of the consideration of the draft (Fig. 9).

Figure 9 – Draft law consideration under the usual, urgency, or extreme urgency procedure



Source: Supreme Audit Institution according to the Seimas Statute

When applying the extra urgent consideration order the time between consideration stages shortens significantly. How many laws were passed without considering them in committees of systematised data.

Under the extreme urgency procedure for consideration, the time between the stages of consideration is considerably reduced. The structured data on the number of laws adopted without consideration by their committees are not available.

The draft laws examined during the spring 2017 session, which were considered by the Seimas as a matter of urgency and extreme urgency, were discussed in the committees. On a random basis, we selected a third of the draft laws (35 out of 108) considered under the urgency and extreme

⁹⁵ Lithuania Evaluation Report, fourth evaluation round "Prevention of corruption in respect of members of parliament, judges and prosecutors", 2014-12-12.

urgency procedure and analysed the time allowed for their consideration. It was found that in all cases a lead Committee was appointed to consider the draft law. Under the urgency procedure, the time allowed for consideration of the draft law from the date of its submission to the sitting of the Seimas until its adoption is on average about 30 days (maximum 42 days, minimum 5 days), and under the extreme urgency procedure - an average of 9 days (maximum 20, minimum 2). Please note that during this period the lead committee must⁹⁶:

- Publish on the website of the Seimas information on when proposals and comments from interested parties are expected in the Committee and how the text of the draft law can be accessed;
- Send the draft to interested public authorities and, where appropriate, to public organisations, municipalities, political parties, so that they can assess the draft legislation and send their assessments;
- Assess and summarise all the material received in relation to the draft law;
- Consider the draft law and prepare the Committee's conclusion before consideration in the Seimas sitting.

It is difficult to expect a thorough and comprehensive consideration of the draft law, while giving the lead Committee little time to carry out the above-mentioned functions, and little opportunity for interested parties to acquaint themselves with the draft law and make significant proposals.

The auditors consider that the urgency and extreme urgency procedure should be used in exceptional cases where the particular social, economic or political circumstances of a country so require.

2.4. Late transposition of 54% of European Directives to the national law

Lithuania, being the EU member state, has to fulfil the membership commitments, including - transfer the EU law to the national law. Fight with the delay to transfer the EU legal acts to the National law is the European Commission priority and an appropriate and timely transfer of the EU law to the national legal acts should be the priority for member states⁹⁷.

Based on European legal department data 2014–2017 I sem. the term for the 199 EU directives transfer to the national law had reached (2014 the transfer for the 56 directives, 2015 – 55, 2016 – 68, 2017 I sem. – 20). We determined that:

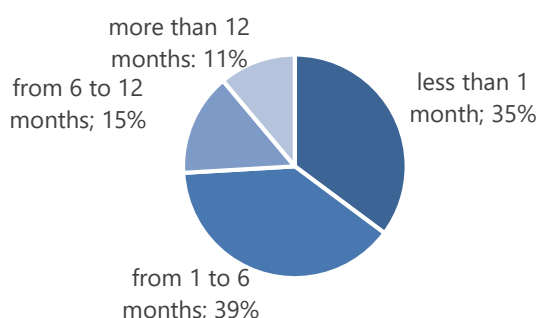
Lithuania, like other EU Member States, has the obligation to transpose EU directives into national law within the time limits set by them (usually within 2 years), i.e. to adopt the legislation transposing the directives⁹⁸. According to the data of the European Law Department, the deadline for transposition of 199 EU directives expired for the period from 2014 to 1st half of 2017 (in 2014 the deadline expired for transposition of 56 directives, in 2015 – for 55 directives, in 2016 – 68, in the first half of 2017) – 20. We found that:

- 54 % (108 out of 199) of the EU directives were delayed;
- Out of them 11% directives (12 out of 108) were delayed by more than a year (Fig. 10).

⁹⁶ Seimas Statute, Articles 147–149.

⁹⁷ European Commission "Monitoring of European Law adoption: 2014 Annual Report", Brussels, 2015., pages 17 and 27.

⁹⁸ Available online: <http://eur-lex.europa.eu/legal-content/LT/TXT/?uri=URISERV%3A14527>.

Figure 10 - Duration of delay of transposition of directives to the national law

Source: Supreme Audit Institution according to the data of the European Law Department

In the event of a delay in the transposition of directives into national law, the European Commission may initiate procedure for not fulfilling the obligation (hereinafter referred to as - infringement procedure). According to the data of the European Law Department of 2017-08-30, the European Commission has launched infringement procedure in respect of 61 (out of 108) delayed Directives, of which 22 are ongoing.

Lithuania is in average position with regard to transposition delays in the EU. In 2016, the European Commission launched more infringement procedures against 15 (out of 28)⁹⁹. EU Member States for late transposition of EU directives than against Lithuania. Delays in transposing EU directives put Member States at risk of financial sanctions.

On a proposal from the European Commission, the Court of Justice of the European Union may decide to impose a lump sum and/or a periodic penalty payment from the date of delivery of the judgment until the infringement has been rectified. As of 2016, the amounts of the fines foreseen for Lithuania are as follows: one-off minimum of 643 thousand EUR, periodic maximum of 46.5 thousand EUR per day¹⁰⁰.

Lithuania has not received penalties for late transposition of EU law, but if the Seimas had not taken into account the Government's proposals to consider draft laws transposing directives as a matter of urgency or extreme urgency, the delays would have been higher, which could have resulted in penalties for Lithuania. We believe that the transposition of EU law should be organised in such a way that draft laws transposing EU law do not need to be considered under the urgency or extreme urgency procedure.

Under the existing procedure, public institutions and bodies are, within their competence, responsible for the transposition and implementation of EU law, while the European Law Department coordinates the transposition and implementation of EU law¹⁰¹. When an EU directive is published in the Official Journal of the EU, the European Law Department assigns and forwards that directive to public institutions and bodies in accordance with their competences¹⁰². Public institutions and bodies submit proposals for a plan for the transposition and implementation of an EU directive, which is approved

⁹⁹ European Commission "Monitoring of European Law adoption: 2016 Annual Report", Brussels, 2017, page 29.

¹⁰⁰ Available online: [http://eur-lex.europa.eu/legal-content/LT/TXT/?uri=CELEX%3A52016XC0810\(01\)](http://eur-lex.europa.eu/legal-content/LT/TXT/?uri=CELEX%3A52016XC0810(01)).

¹⁰¹ Rules for coordination of European matters approved by the Government Resolution of 2004-01-09 No 21 (As last amended by Resolution of 2005-04-29 No 478), para 38.

¹⁰² Ibid, para 40.

by the European Law Department¹⁰³. The plan must indicate the titles of the draft legislation intended to transpose the directive, the institutions responsible for drawing up the drafts, the expected date of adoption of the drafts, the date of submission to the Government and the expected date of approval of the draft law by the Government¹⁰⁴.

We analysed in more detail how the selected ministries (Finance, Social Security and Labour, Justice) which had to prepare draft legislation for transposition of 33 % of EU directives (66 out of 199) are implementing their plans for the transposition and implementation. These ministries were responsible for drawing up 143 draft legal acts, of which 74 % (105) were draft laws. They had to submit the resulting draft laws to the government within the deadlines set out in the plans for the transposition and implementation of EU directives.

According to the European Law Department, the selected ministries did not submit as many as 72 % (76 out of 105) of draft laws to the Government within the planned deadlines. We interviewed the Ministries and reported delays in the submission of draft laws due to delays in their preparation and coordination with the institutions concerned.

We selected 13 % of the draft laws that were not submitted to the Government by the selected ministries within the planned deadlines (10 out of 76). We found that their preparation in ministries started on average 10 months (minimum 1 month and maximum 17.5 months) after the adoption of the transposition and implementation plan for the EU Directive. We give an example of the implementation of the transposition and implementation plan for Directive 2014/56/EU¹⁰⁵ approved on 2014-06-06 (Table 4). The Directive was published in the Official Journal of the EU on 2014-05-27 and had to be transposed by 2016-06-17, i.e. within 2 years¹⁰⁶.

Table 4 - Deadlines for the drafting and adoption of the draft law provided for in the plan for the transposition and implementation of Directive 2014/56/EU

Plan implementation	Starting date of drafting	Date of submission of the draft to the Government	Date of registration of the draft in the Seimas	Expected date for adoption	Draft law	Responsible institution
Planned date	Not planned. It could have been started on 2014-06-06 after the approval of the plan	2015-09-30	2015-10-31	2016-04-30	Draft Law amending the Law on audit No. VIII-1227	Ministry of Finance
Actual date	2015-01-22	2016-04-13	2016-06-01	2016-12-15		
Duration of delay	-	6.5 months	7 months	7.5 months		

Source: Supreme Audit Institution according to data of the information system for Lithuania's membership of the European Union and the Legislative Information System of the Office of the Seimas

The adoption of the draft law was therefore delayed by 7.5 months. The draft could be adopted in a timely manner if the Ministry of Finance had started to prepare it instead of 2015-01-22, but

¹⁰³ Ibid, para 44.

¹⁰⁴ Ibid, paras 41 and 44.

¹⁰⁵ Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts Text with EEA relevance (OL 2014 L 158, para 196).

¹⁰⁶ European Union Journal, 2014-05-27, No. L 158.

7.5 months before at the time of approval of the transposition and implementation plan for the EU Directive. Due to delays in the transposition of the above-mentioned EU Directive, the European Commission launched infringement procedure and sent a letter of formal notice to Lithuania on 2016-07-28, which was forwarded by the European Law Department to the Ministry of Finance. The Ministry coordinated¹⁰⁷ the draft reply with the Ministries of Foreign Affairs and Economy, the Supervisory Service of the Bank of Lithuania, the Audit, Accounting, Asset Valuation and Insolvency Management Service and the European Law Department, and on 2016-09-26 submitted it to the European Commission¹⁰⁸. The working time of the employees of these public authorities who prepared or participated in the preparation of the reply could be saved and spent on other tasks if Lithuania had not been late in transposing the Directive.

The European Law Department, which coordinates and supervises the implementation¹⁰⁹ of the plans for the transposition and implementation of EU directives, analyses the work on the drafting of planned legislation and other measures and provides aggregated information to the Seimas' Committee on European Affairs and to the Government's Commission of the European Union, where appropriate to the Government¹¹⁰. Unlike the Department of European Law, these entities have the power to take decisions obliging ministries and other public institutions and bodies to eliminate delays in the transposition of EU law.

We noted that the draft laws transposing EU directives are not only drafted in a timely manner, but also do not assess the options for transposition laid down in the directives (see section 2.1 of the report for more details).

According to the auditors, the deadline for transposition of EU directives into national law (usually 2 years) is sufficient to prepare and adopt draft laws transposing directives in a timely manner, without the need for an urgency or extreme urgency procedure. This should include not only the planning of the deadlines for the submission of these draft laws to the Government and the Seimas, but also the setting of the starting dates for the preparation of the drafts, ensuring that all planned deadlines are respected.

2.5. The legislative process is not sufficiently open and transparent, with too little involvement of the public

In accordance with the principle of openness and transparency of legislation, legislation must be public, legislative decisions of general interest must not be taken without the public's knowledge and participation, public policy objectives, regulatory needs and actors involved in legislation must be known, and the public and interest groups must be able to make proposals for regulation at all stages of the legislative process¹¹¹. The aim of the public consultation is to ensure legislative openness, transparency, public opinion on regulatory problems and how to address them, to enable the public to influence the content of the draft legislative act, to better assess the positive and negative consequences of the envisaged regulation, the costs of its implementation, to

¹⁰⁷ Letter of the Ministry of Finance of 2016-08-31 No. ((6.3-03)-5K-1616071)-6K-1606204 "On the Agreement of the Draft Answer to the European Commission".

¹⁰⁸ Letter of the Ministry of Finance of 2016-09-26 No. (6.5-03)-6K-1606678 "On the EU law infringement procedure No. 2016/0540 initiated by the European Commission".

¹⁰⁹ Regulations of the European Law Department approved by the Order of the Minister of Justice of 2014-07-02 No. 1R-204, para 8.1.2.

¹¹⁰ Coordination rules of the European Union Affairs approved by the Government Resolution of 2004-01-09 No. 21 (As last amended by Resolution of 2005-04-29 No. 478 edit), para 47 and 48.

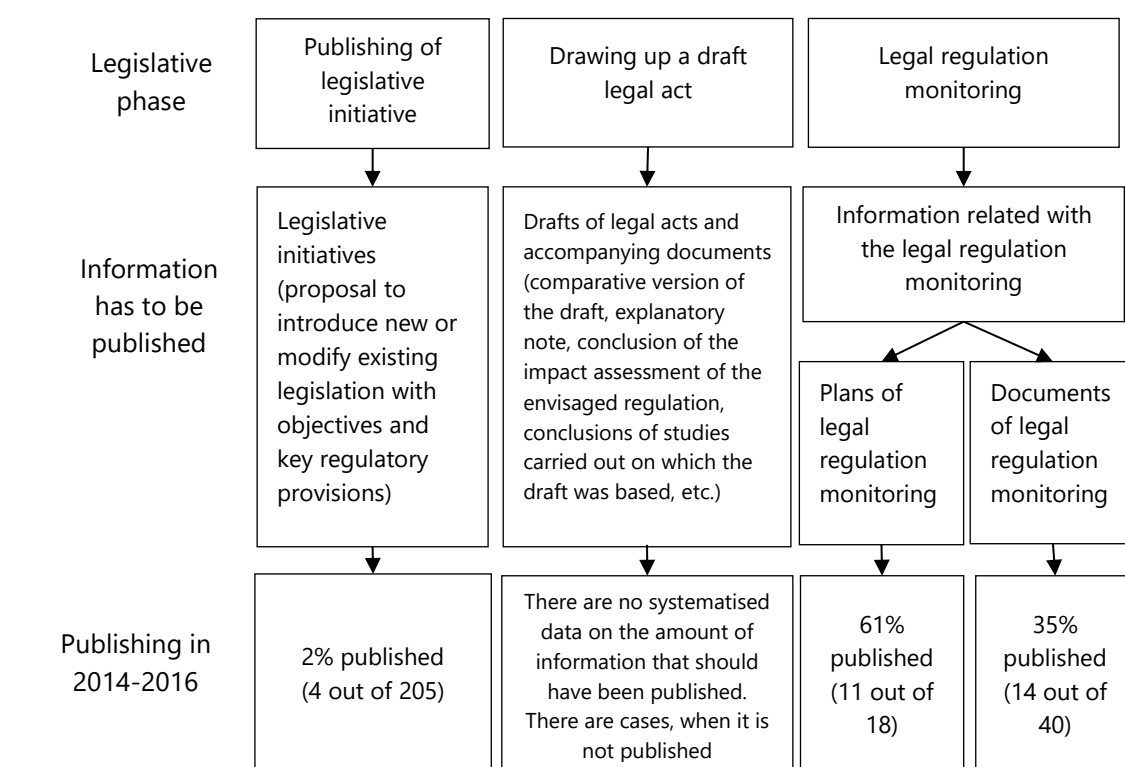
¹¹¹ Law on Legislature Framework, Article 3, para 2(4).

submit proposals for legislative initiatives and draft legislation published in the Legislative Information System of the Office of the Seimas (hereinafter referred to as LIS), as well as for the legal regulation under monitoring¹¹².

The LIS is used to ensure openness, transparency and concentration of legislation¹¹³. This framework allows for a public and free-of-charge review of draft legislation, its accompanying documents, regulatory initiatives, regulatory monitoring and related legislative data¹¹⁴. The public is consulted through the LIS: all individuals are given the opportunity to submit proposals for legislative initiatives and draft legislation published in the framework, as well as for the legal regulation under monitoring¹¹⁵.

The LIS must include the information specified in the Law on Legislature Framework¹¹⁶. We found that Ministries do not publish all information on the LIS (Figure 11) and therefore the openness of the legislation, transparency and the possibility for all persons to submit proposals for regulation are not ensured.

Figure 11 – Information published on the LIS in 2014–2016



Source: Supreme Audit Institution based on the legal acts and data supplied by the Ministry of Justice in the note on legal regulation monitoring of 2016-02-22 No. 5R-27.

The non-publication by ministries of legislative initiatives in the LIS limits the public's ability to know what legal regulation is to be changed and for what purposes. The public should be involved as early as possible¹¹⁷ in the legislative process, allowing individuals to make proposals for

¹¹² Ibid, Article 7, part 1.

¹¹³ Ibid, Article 5, part 1.

¹¹⁴ Regulations of Legal Act Information System approved by the order of the Seimas chancellor of 2008-10-24 No. 400-JVK-343 (As last amended by the order of 2013-12-17 No. 400-JVK-376), para 17
Law on Legislature Framework, Article 5(4)

¹¹⁶ Ibid, Article 5, part 2.

¹¹⁷ Organisation for Economic Co-operation and Development, "Regulation policy in Lithuania", Paris, 2015, page 23.

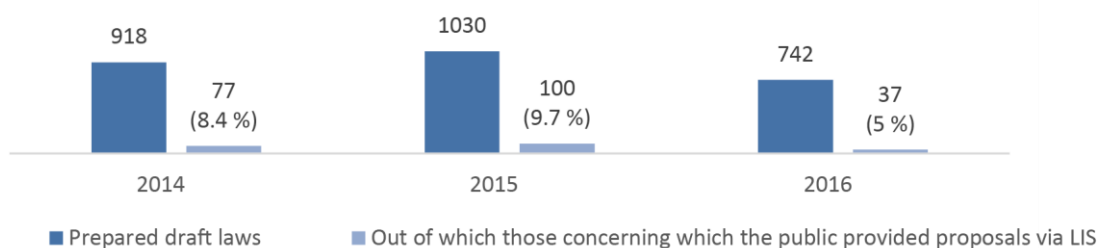
regulatory problems, ways of addressing them, and alternatives to regulation. For example, the Strategic Action Plan¹¹⁸ for the Governance Areas of the Minister of Justice for 2014-2016 planned but not published in the LIS legislative initiatives of relevance to the public and human rights organisations, including:

- Ensure effective protection of victims of criminal offences in criminal proceedings and draft a law amending and supplementing the Code of Criminal Procedure;
- Optimise the processes of resocialisation of sentenced persons, harmonise the system of rights, freedoms and obligations of persons kept in detention, prepare the necessary draft legislation.

The Ministries agree that the publication of information on the LIS is an important part of the legislative process. However, according to the survey, only less than half of the ministries (6 out of 14) applied internal controls to ensure the publication of information: in these Ministries, the staff of the legal units and/or the heads of units controlled the publication of information by the Ministry's civil servants or employees entitled to use the LIS.

Between 2014 and 2016, the public in the LIS made proposals for a small proportion (8 %) of draft laws prepared by ministries (Fig. 12).

Figure 12 - The proportion of the draft laws, for which the public provided proposals.



Source: Supreme Audit Institution based on the surveys of ministries results

Lithuanian and international studies show that the country's society is passive and makes little use of its rights and opportunities to participate in the political decision-making process¹¹⁹. In addition, the LIS publishes a large amount of information, which makes it difficult for the public to keep track of the information published on a regular basis. For example, from 2017-09-26 to 2017-10-02, 254 draft legal acts and 1 358 other documents were published on the LIS.

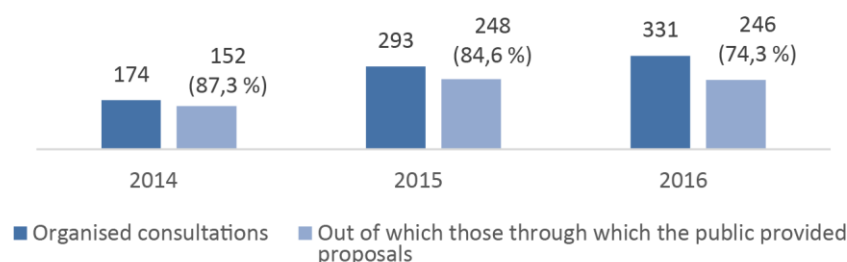
When the public is consulted through the LIS, all persons are given the opportunity to submit proposals for regulation, but they are not asked questions. During the interviews, academics shared the opinion of the Supreme Audit Institution that, in order to achieve effective consultation, priority should be given to such forms of consultation, where the public or groups thereof are given specific and clear questions to obtain an opinion.

Ministries may consult the public on legal regulation not only through the publication of the prescribed information in the LIS, but also through other means of their choice¹²⁰. The number of such consultations organised by ministries is increasing each year (Fig. 13). Through such consultation methods, the public is more active than by making proposals through the LIS.

¹¹⁸ Approved by the order of the Minister of Justice of 2014-02-17 No. 1R-41.

¹¹⁹ Civil Society Institute "Strengthening the Cooperation between Governmental and Non-Governmental Sectors in the Process of Public Policy Decision Making", Vilnius, 2015, page 5.

¹²⁰ Law on Legislature Framework, Article 7 (3)

Figure 13 - The consultations organised by the ministries when the public provided proposals

Source: Supreme Audit Institution based on the results of ministerial survey

The results of the ministerial survey show that, generally in practice, they consult the public at the stage of drafting legislation, in particular by using the following methods (priority order): involve representatives of non-governmental organisations (NGOs) in working groups/commissions for drafting legislation; draft legislation is submitted for coordination by NGOs; organise meetings with the public; conducting surveys of the public or of individual groups of the public.

The public is rarely consulted by ministries during the regulatory monitoring phase. In most cases, regulatory monitoring has involved interviews with public administrations, but not with public or business representatives, who are affected by legal regulation¹²¹.

It is important that the Government submits draft laws to the Seimas which are discussed in one way or another at the time of drafting with entities whose business, labour, social security, adequate living environment or other interests are concerned by the proposed legal regulation, i.e. after consultation of the public¹²². If the public is not sufficiently consulted during the preparation of the draft law, the consultation shall be moved to the Committees of the Seimas.

Example of consultation with the public

- In 2016, the Ministry of the Interior drew up a draft law on the legal status of aliens, which aims to lay down immigration rules applicable to third-country nationals who are transferred to work temporarily as managers, specialists or graduate trainees from companies established in third countries to agencies of these companies, branches or companies belonging to the same group of companies, established in Lithuania¹²³.
- The Ministry of the Interior published the draft law on the LIS, and otherwise did not consult interested public groups.
- The Government submitted the draft law on 2017-03-08 to the Seimas. During the consideration of the draft in the Committee on Foreign Affairs of the Seimas, NGOs (Infobalt, etc.) made 3 proposals to improve it. The Committee examined the proposals¹²⁴, received and agreed to them. The law was adopted by the Seimas on 2017-05-25.
- The NGOs explained to us that they had submitted proposals for this draft law to the Seimas Committee, not to the Ministry, as the information on the draft only reached them once it had already been considered in the Seimas.

¹²¹ Law Institute, "Prospects for *Ex-post* Evaluation of Legal Regulation in Lithuania", 2017, page 108.

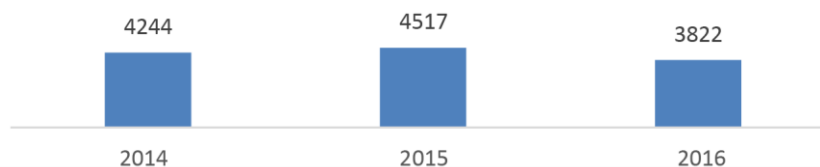
¹²² Study of the Parliamentary Research Department of the Seimas of the Republic of Lithuania "Legislative tendencies and indicators in the European Union Member States and Lithuania", page 9.

¹²³ Draft Law on the Amendment of the Law on the Legal Status of Foreigners" No. IX-2206, 2016-09-06 No. 16-9640.

¹²⁴ On the Draft Law No. XIII-P-443 on the Amendment of the Law on the Legal Status of Foreigners" No. IX-2206", 2017-04-21 No. 105-P-37.

This increases the workload of the Committees of the Seimas and prolongs the process of examining the drafts. The Seimas Committees receive a large number of proposals (around 4 thousand) from the public each year for draft laws and regulations under discussion (Fig. 14).

Figure 14 - Number of draft legislative proposals received and examined by citizens and NGOs in the Seimas Committees in 2014-2016



Source: Supreme Audit Institution based on the data of the Activity Report of the Office of the Seimas for 2014-2016

In Lithuania, legislation only lays down general requirements for public consultation: There is no indication of which specific cases should be consulted on how to plan the consultations, how they can be consulted and how they can be applied. According to the survey, for most ministries (11 out of 14) there is insufficient methodological information on possible ways of consulting the public and/or their application.

Some EU countries (for example: Denmark, Germany, France, Finland and the United Kingdom) have established a public consultation mechanism in the form of guidelines or other documents: they set out the cases in which consultation is mandatory, specify that consultation is to be planned and define the possible methods of consultation and their application¹²⁵.

Changes during the audit:

The Office of the Government, together with the public entity "Invest in Lithuania", is implementing the project "Open Government Initiatives", which aims to develop a common practice of public consultation in public administration, to increase the effectiveness of public participation in public administration, to increase the availability of information on Government activities and measures to involve the public in decision-making, and to strengthen the competences needed to develop the openness of public administration. The project is expected to lead to the development of a methodology for public consultation, which, according to the authors, will also be appropriate for public consultation on regulatory issues.

The LIS is not sufficiently used to ensure legislative publicity, transparency and the possibility for all individuals to submit legislative proposals, as ministries do not publish all legislative initiatives, draft legislation and accompanying documents, regulatory monitoring plans and certificates in this system. A control mechanism should therefore be established to ensure the publication of that information. According to the auditors, if the organisation of public consultation were properly defined in the public consultation methodology under preparation, this would allow for a more successful involvement of the public in the legislation.

¹²⁵ Study of the Parliamentary Research Department of the Seimas of the Republic of Lithuania "Legislative tendencies and indicators in the European Union Member States and Lithuania", Vilnius, 2015, pages 9–16.

RECOMMENDATIONS IMPLEMENTATION PLAN

Number of the recommendation in the report	Recommendation	Entity to which the recommendation is submitted	Action/ Measures/ Comments*	Date of implementation and communication of the recommendation *
1.	In order to improve the existing legal framework in a coherent and targeted manner and to use human resources efficiently for this purpose, reform the regulatory monitoring framework in such a way as to bring together the competences of the different institutions to carry out regulatory assessments and move from fragmented regulatory assessments to systematic assessments of relevant and problematic areas.	The Government of the Republic of Lithuania	1. Develop an ex-post evaluation model adapted to the Lithuanian legal system and introduce it into the cycle of legislative process:	
			1.1. Develop a model for assessment of legal regulation framework adapted to the Lithuanian legal system and oriented towards improving legislative efficiency and discuss it with stakeholders	2018 June 1
			1.2. Develop draft legal acts implementing new legal regulation assessment framework	2018 July 31
			1.3. To accept the proposed reform of legal regulation assessment framework at the Government level	2018 September 30
			1.4. To accept the proposed reform of legal regulation assessment framework at the Seimas level and reinforce it in the Law of Legislative Framework	30 April 2019
			2. Develop a methodology for assessing the compliance of existing regulatory areas with better regulation principles and conduct a pilot assessment:	
			2.1. Develop a model for systematic reviews of existing legislation and discuss it with stakeholders	2018 May 15
			2.2. Develop guidance for practitioners on how to carry out a systematic review of existing legislation	2018 May 31
			2.3. Carry out a pilot assessment using guidelines for systematic reviews of existing legislation	2018 June 30
			2.4. Present guidelines for systematic reviews of existing legislation and the results of the pilot evaluation to practitioners in Ministries	2018 October 31

Number of the recommendation in the report	Recommendation	Entity to which the recommendation is submitted	Action/ Measures/ Comments*	Date of implementation and communication of the recommendation *
2.	In order to ensure the timely and correct preparation of draft legislation of in the interest of public and the state:			
2.1.	Reform the impact assessment system in such a way as to ensure an appropriate assessment of the potential consequences of the envisaged regulation on the individuals or groups of individuals to whom it will apply, the economy, public finances, the social environment, public administration, the scale of corruption, administrative burden, etc. and the communication of the results of the assessment and the underlying data to the legislator	The Government of the Republic of Lithuania	1. Implement a package of initiatives to strengthen the demand for and supply of evidence through the preparation and consideration of draft legislation:	
			1.1. Prepare guidelines for the presentation to the government of the planned legislative initiative to the ministries before submitting the draft law	2018 March 31
			1.2. Select planned legislative initiatives for which the results of the justification and analysis should be presented more widely	2018 September 1
			1.3. Prepare an analysis of the practical application of the guidelines and present them to participating and interested parties	2019 February 28
			2. In the light of the results of point 1.3, prepare proposals for a planned change in the regulatory framework for regulatory impact assessment, discuss with stakeholders	2019 May 31
			3. Revise, if necessary, the methodology for assessing the impact of the envisaged regulatory framework and/or other relevant legislation	2019 September 30
2.2.	Identify measures to ensure the timely preparation of legislation aligning the national legal framework with EU law, after having assessed all transposition options	The Government of the Republic of Lithuania	Review and update the EU transposition coordination mechanism, including additional measures to strengthen coordination where necessary	31 December 2018
2.3.	Establish methods and procedures for public consultation	The Government of the Republic of Lithuania	Develop a methodology for public consultation and guidelines for its application to civil servants	15 April 2018

Number of the recommendation in the report	Recommendation	Entity to which the recommendation is submitted	Action/ Measures/ Comments*	Date of implementation and communication of the recommendation *
2.4.	Ensure that all information specified in the Law on Legislative Framework would be published in the Legislative Information System of the Office of the Seimas	The Government of the Republic of Lithuania	When implementing all measures to comply with recommendations 1 and 2, identify, in each case, the selected measures and methods for the publication of information in the Legislative Information System of the Office of the Seimas	2019 September 30
3.	To facilitate the improvement of the legislative process, to ensure the documentation, compilation and filing of data related to the legislative process	The Government of the Republic of Lithuania	When implementing all measures to comply with recommendations 1 and 2, in each case, identify the selected measures and methods to systematise and publicise information on the results of evaluations, analyses carried out	2019 September 30
* – Measures and deadlines for the implementation of the recommendations have been provided by the Office of the Government. Contact person responsible for informing the National Audit Office of the implementation of the recommendations within the deadlines set out in the plan: Daiva Žaromskytė-Rastėnė, Chief Advisor, Strategic Competences Group, Office of the Government Tel.: + 370 706 63776; E-mail: daiva.zaromskyte@lr.lt				

Director of Governance Audit Department

Živilė Simonaitytė

Senior Auditor of the Governance Audit Department

Gediminas Sungaila

Public Audit Report has been submitted to: the Seimas Board, Seimas Audit committee, Seimas Law and Legislature Committee, Seimas European Affairs Committee, the Government, the Ministry of Justice, the European Law Department under the Ministry of justice

The audit was carried out by:

Gediminas Sungaila (team leader), Tadas Karanauskas, Diana Muravjova, and Haroldas Sabulis.

ANNEXES

Public audit report
"Legislative process"
Annex 1

The scope and methods of the audit

The scope of audit

The objective of the audit is to assess whether the applicable legislative process provides the right basis for a unified, coherent, sustainable and effective legal framework by answering the following questions:

- Whether the assessment of the existing legal regulation makes it possible to ascertain the relevance of the regulation and to identify the need for its amendment;
- Whether responsible legislation is ensured in the drafting and adoption of legislation.

Audited entities - Ministry of Justice, Office of the Government and European Law Department under the Ministry of Justice.

Period of audit – 2014–2017. Longer-term data were also collected to assess the developments. We have analysed data of the legislation in the Seimas from 15/11/2004 to 16/11/2008 (hereinafter referred to as the 2004–2008 period), from 17/11/2008 to 14/11/2012 (hereinafter referred to as the 2008–2012 period), from 16/11/2012 to 10/11/2016 (hereinafter referred to as the 2012–2016 period), and from 10/03/2017 to 11/07/2017.

During the audit, we focused our analysis of the legislative process on the drafting and adoption of laws, as this process, unlike other legislative acts, involves virtually all actors in the legislative process.

The audit was carried out in accordance with the Public Auditing Requirements¹²⁶ and International Standards of Supreme Audit Institutions¹²⁷.

Audit data collection and evaluation methods

Audit report section/ division	Methods for the data collection and evaluation	Objective
1. Whether sufficient action is taken to identify the need for amendment, excessive legal regulation		
1.1. Ineffective evaluation of the current legal regulation	1. Document review. We reviewed: ▪ the regulation of legal monitoring; ▪ regulatory monitoring plans and certificates approved by public authorities; ▪ Study of the Law Institute on "Prospects for ex-post evaluation of legal regulation in Lithuania". 2. Survey: we surveyed all ministries. 3. Interviews: We have been in contact with representatives from: ▪ Office of the Government	To determine whether the monitoring of legal regulation is organised in such a way that the most relevant and problematic areas of legal regulation are selected and systematically assessed in these areas.

¹²⁶ Order of the Auditor General of 2002-02-21 No. V-26 "On the Approval of the Public Auditing Requirements".

¹²⁷ ISSAI 3000 "Performance Audit Standard", available online: <http://www.vkontrole.lt/page.aspx?id=350>.

Audit report section/ division	Methods for the data collection and evaluation	Objective
	■ Ministries of Justice, Finance and Social Security and Labour; ■ Law Institute. 4. Data analysis. We analysed information from document reviews, interviews and interviews. Using the case analysis approach, we analysed the organisation of the monitoring of the 15 statutory regulations of the Ministries of Justice, Finance, Social Security and Labour	
1.2. There is a lack of a coordinator for the regulatory assessment process, bringing together the competences of all public authorities to achieve a common objective	1. Document review. We reviewed: ■ coordination of legal monitoring, assessment of administrative burdens imposed by legislation; ■ Study of the Law Institute on "Prospects for ex-post evaluation of legal regulation in Lithuania". 2. Survey: We surveyed all ministries. 3. Interviews: We have been in contact with representatives from: ■ Office of the Government; ■ Ministries of Justice and Economy; ■ Law Institute; ■ Lithuanian Free Market Institute. 4. Data analysis. We analysed information from document reviews, interviews and interviews.	Determine whether the regulatory assessment is properly coordinated.
2. Whether Responsible Legislation is Ensured?		
2.1. No assessment of superficial assessment is carried out of the possible consequences of the proposed regulation when introducing new or amending existing regulation	1. Document review. We reviewed: ■ regulating the preparation of draft legislation and the organisation of impact assessments; ■ The conclusions of the Legal Department of the Office of the Seimas of December 2016 on the draft laws submitted by the Government; ■ A study by the Parliamentary Research Department of the Seimas on "Legislation Trends and Indicators in the European Union and Lithuania"; ■ Ministry of Economy report 2015-08-28 "Implementing impact assessment of decisions and their drafts"; ■ other selected draft legislation and accompanying material; 2. Survey: we surveyed all ministries, the European Law Department. 3. Interviews: We have been in contact with representatives from: ■ Office of the Seimas; ■ Ministries; ■ European Law Department. 4. Data analysis. We analysed the information received during the year of document	To determine whether the assessment is carried out on: ■ the consequences of the envisaged legal regulation; ■ possible alternatives to regulation.

Audit report section/ division	Methods for the data collection and evaluation	Objective
	reviews, interviews and interviews. Using the case analysis method, we analysed: ■ 10 % would be selected (8 out of 78) covering letters of draft recast laws adopted by the Seimas between 2012 and 2016; ■ 6 out of 179 EU Directives for transposition were selected within the audited period.	
2.2. High intensity of the legislative process	1. Document review. We reviewed: ■ legislative regulation; ■ the legislative statistics of the Parliament of the Republic of Lithuania for the years 2004 to 2016, etc.; ■ The work programmes for the sessions of the Seimas; ■ Ministerial strategic planning documents; ■ A study by the Parliamentary Research Department of the Seimas on "Legislation Trends and Indicators in the European Union and Lithuania"; ■ geographically, historically closest countries and other EU countries. 2. Survey: we surveyed all ministries. 3. Interviews: We have been in contact with representatives from: ■ Office of the President; ■ Office of the Seimas; ■ Office of the Government; ■ Ministries. 4. Data analysis. We analysed information from document reviews, interviews and interviews.	To determine whether the scope of the legislative process makes it possible to ensure proper legal regulation.
2.3. Around 50% of draft laws are adopted when evaluating under urgency or extreme urgency procedure	1. Document review. We reviewed: ■ regulating the treatment of draft laws as a matter of urgency and extreme urgency; ■ A study by the Parliamentary Research Department of the Seimas on "Legislation Trends and Indicators in the European Union and Lithuania"; ■ Verbatim reports of proceedings of the Seimas of the Republic of Lithuania, legislative statistics for the period 2004-2016, etc. 2. Interviews: We have been in contact with representatives from: ■ Office of the President; ■ Office of the Seimas; ■ Ministries. 3. Data analysis. We analysed information from document reviews and interviews	To determine whether the use of the urgency and extreme urgency procedure when considering draft laws ensures that the law-makers are given sufficient time to consider the draft law.

Audit report section/ division	Methods for the data collection and evaluation	Objective
2.4. Late transposition of 54% of European Directives to the national law	1. Document review. We reviewed: - Regulating the transposition and implementation of EU law; - Plans for the transposition and implementation of EU directives and data on their implementation; - European Commission reports on the transposition of EU law, etc. 2. Survey: we surveyed all ministries, the European Law Department. 3. Interviews: We have been in contact with representatives from: - Office of the Seimas; - ministries; - Department of European Law. 4. Data analysis. We analysed the information received during the year of document reviews, interviews and interviews.	To determine whether the transposition of directives into national law is organised in such a way as to ensure the timely transposition of directives.
2.5. The legislative process is not sufficiently open and transparent with too little involvement of the public	1. Document review. We reviewed: - Planning documents, reports and certificates from the Office of the Seimas, ministries; - A study by the Parliamentary Research Department of the Seimas on "Legislation Trends and Indicators in the European Union and Lithuania"; - The information published by them; - studies on public participation in legislation, foreign practices, etc. 2. Survey: we surveyed all ministries. 3. Interviews: We were in contact with: - The Seimas; - Office of the Government; - ministries; - NGOs (Lithuanian Free Market Institute, Infobalt, etc.); - academics (Dr D. Bublienė) 4. Data analysis. We analysed information from document reviews, interviews and interviews.	To determine whether: - ensure publicity and transparency of legislation; - the public shall be able to participate in the legislative process.

List of draft recast laws analysed during the audit and adopted between 2012 and 2016

Title of explanatory note to the draft law	Draft law
Explanatory note to the draft law amending the Law on Declaration of Residence	Ministry of the Interior
Explanatory note to the draft law amending the Law on Social Insurance for Sickness and Maternity	Ministry of Social Security and Labour
Explanatory note to the draft law amending the Law on State Social Assistance Benefits	Ministry of Social Security and Labour
Explanatory note to the draft law amending the Law on Charity and Sponsorship	Ministry of Culture
Explanatory note to the draft law amending the Law on Higher Education and Studies	Ministry of Education and Science
Explanatory note to the draft Law on Minimum and Medium Care for the Child	Ministry of Education and Science
Explanatory note to the draft law amending the Law on Construction	Ministry of environment
Explanatory note to the draft law amending the Law on National Heritage Products	Ministry of Agriculture

Source: Legislation Information System of the Office of the Seimas

Public audit report
 "Legislative process"
 Annex 3

List of draft laws transposing EU law analysed during the audit

Title of the draft law	Draft law	Transposition of the EU Directive
Draft Law amending the Law on Control of the Circulation of Civil Pyrotechnics and related draft laws	Ministry of the Interior	Directive 2013/12/EU of the European Parliament and of the Council of 2013 June 29 on the harmonisation of the laws of the Member States relating to the making available on the market of pyrotechnic articles (OJ 2013 L 178, p. 27)
Draft Law amending and supplementing the Law on Waste Management	Ministry of environment	Directive 2012/4/EU of the European Parliament and of the Council of 2012 July 19 on waste electrical and electronic equipment (WEEE) (OJ 2012 L 197, p. 38)
Draft Law amending the Law on the Legal Status of Aliens and related draft laws	Ministry of the Interior	Directive 2013/26/EU of the European Parliament and of the Council of 2013 June 32 on common procedures for granting and withdrawing international protection (OJ 2013 L 180, p. 60)
Draft Law on Payments and related draft laws	Ministry of finance	Directive 2014/23/EU of the European Parliament and of the Council of 2014 July 92 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (OJ 2014 L 257, p. 214)
Draft Law on Credit relating to Immovable Property and Related draft laws	Ministry of finance	Directive 2014/4/EU of the European Parliament and of the Council of 2014 February 17 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (OJ 2014 L 60, p. 34)
Draft Law amending the Law on the Legal Status of Aliens	Ministry of social security and labour	Directive 2014/26/EU of the European Parliament and of the Council of 2014 February 36 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers (OJ 2014 L 94, p. 375)

Source: Legislation Information System of the Office of the Seimas