

# **Legal environment and space of civil society organisations in supporting fundamental rights**

**Lithuania**

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# 1 Five most significant civic space developments in 2020

## 1.1 Registration of NGOs

There are more than 35,000 non-profit legal entities registered in Lithuania. They may be founded by persons, governments, municipalities or even businesses. Although there is a definition of NGOs in the Law on NGO development (Article 2), additional data is necessary to determine whether a particular non-profit organisation could be considered as having the status of NGO. The new Law on NGO development, which took effect on 1 March 2020<sup>1</sup>, stipulates that information on legal entities which are NGOs shall be collected in the Register of Legal Entities and made publicly available. The new law provides a possibility for non-profit organisations to register as NGOs at the Register of Legal Entities. The procedure is notification based and does not require authorization. It is free of charge. New measure provides clarity to institutions and society whether particular legal entity complies with definition of NGO stated in the Law. It is also a base for future developments regarding collecting data on NGOs, which is necessary for two reasons:

- It improves greater trust in NGOs as more information becomes available to the society
- It makes it possible for government to collect data which is necessary for informed policymaking.

## 1.2 Freedom of association

On 1 June 2020 amendments to the Law on Charity foundations<sup>2</sup> and Law on Associations<sup>3</sup> came into effect. Based on the amendments, the new regulations introduced a requirement for Foundations and Associations which consider themselves as NGOs (i.e. register as NGOs at the Register of Legal Entities) to provide information on their stakeholders. Foundations must provide information regarding stakeholders in a national register of stakeholders of legal entities<sup>4</sup>. However, associations are required to provide information on how many members they have and specify information regarding members which are legal entities in their annual report (Article 10). Respecting freedom of association and data protection, information regarding members who are persons must be kept at the

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<sup>1</sup> Lithuania, Parliament of the Republic of Lithuania (*Lietuvos Respublikos Seimas*), [Law on Development of Non-governmental organizations](#), 1 March 2020.

<sup>2</sup> Lithuania, Parliament of the Republic of Lithuania (*Lietuvos Respublikos Seimas*), Amendment of Law on Charity Foundations ([Labdaros ir paramos fondų įstatymo pakeitimas](#)), 1 June 2020.

<sup>3</sup> Lithuania, Parliament of the Republic of Lithuania (*Lietuvos Respublikos Seimas*), Amendment of Law on Associations ([Asociacijų įstatymo pakeitimas](#)), 1 June 2020.

<sup>4</sup> Lithuania, Centre of Register of the Republic of Lithuania (*Lietuvos respublikos registru centras*) [Information on register of stakeholders of legal entities](#).

headquarters of an organisation and must be available to members of the association (Article 13). New requirements were introduced to make it possible to objectively distinguish NGOs from other non-profit legal entities. It is important to mention that Public establishments (i.e. third legal form that may be recognised as NGO) had such obligation to provide information regarding its stakeholders since 2017 (Article 8(1)).<sup>5</sup>

### **1.3 CSO advocacy/public benefit status**

A new Law on Lobbying activities<sup>6</sup> was adopted on 26 June 2020. The law stipulates that activities by public benefit NGOs are not considered to be lobbying activities. This means that all NGOs that are not considered to be public benefit NGOs, must register as lobbyists with the Chief Official Ethics Commission (Article 8). Although the new law only came into effect on 1 January 2021 and there is no case law or other evidence to analyse its effect on civil society, some organisations (especially political youth NGOs) are worried whether their activities will not be considered as public benefit. The Law on NGO development<sup>7</sup> defines that a public benefit NGO is an NGO whose activity benefits not only its members, but also the society (Article 2, para 7). The law also stipulates that public benefit NGOs may be treated preferentially by institutions providing financing for NGOs (Article 8). There will be more clarity on this when the Ministry of Social Affairs and Labour adopts a regulation on recognising public benefit status for NGOs. As of January 2020, this project on having a new regulation is being discussed within the National NGO Council, an advisory body to the Government of Lithuania.

### **1.4 Freedom of peaceful assembly**

Due to COVID-19, on 13 March 2020 the Lithuanian Government introduced quarantine measures<sup>8</sup> from 16 March until 30 March 2020. All events and gatherings whether inside or outside were prohibited for this period. However, this quarantine was further extended several times: on 25 March it was extended until

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<sup>5</sup> Lithuania, Parliament of the Republic of Lithuania (*Lietuvos Respublikos Seimas*), Law on Public establishments ([Viešųjų įstaigų įstatymas](#)), 3 July 1996.

<sup>6</sup> Lithuania, Parliament of the Republic of Lithuania (*Lietuvos Respublikos Seimas*), Law on Lobbying activities ([Lobistinės veiklos įstatymas](#)), 26 June 2020.

<sup>7</sup> Lithuania, Parliament of the Republic of Lithuania (*Lietuvos Respublikos Seimas*), [Law on Development of Non-governmental organizations](#), 1 March 2020

<sup>8</sup> Lithuania, Government of the Republic of Lithuania (*Lietuvos Respublikos Vyriausybė*), Decision regarding the announcement of quarantine in the territory of the Republic of Lithuania ([Nutarimas dėl karantino Lietuvos Respublikos teritorijoje paskelbimo](#)), 13 March 2020

13 April,<sup>9</sup> on 8 April it was extended until 27 April<sup>10</sup>, on 22 April it was extended until 11 May,<sup>11</sup> on 6 May it was extended until 31 May<sup>12</sup>, and on 27 May it was extended until 16 June<sup>13</sup>. According to the Law on Prevention and Control of Communicable Diseases in Humans<sup>14</sup>, territorial quarantine measures may only be introduced for a period of no longer than three months. If necessary, this period may be extended by one month at a time. During the first wave of COVID-19, the government decisions followed the national law, however, then the total number of 3 months was exhausted. During the second wave of COVID-19, quarantine measures were introduced on 7 November 2020<sup>15</sup>, however, the decision did not specify a clear date of when the measures would end. On 26 November, the decision was amended and the date of the planned end of quarantine was set for 17 December<sup>16</sup>; this was later extended to 31 January 2021<sup>17</sup>. However, on 17 November 2020 a group of human rights defenders gathered at the Polish Embassy to protest against abortion restrictions in Poland<sup>18</sup>. Furthermore, on 21 November a group of around 40 people gathered at the Parliament to protest

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<sup>9</sup> Lithuania, Government of the Republic of Lithuania (*Lietuvos Respublikos Vyriausybė*), Decision regarding the announcement of quarantine in the territory of the Republic of Lithuania ([Nutarimas dėl karantino Lietuvos Respublikos teritorijoje paskelbimo](#)), 25 March 2020.

<sup>10</sup> Lithuania, Government of the Republic of Lithuania (*Lietuvos Respublikos Vyriausybė*), Decision regarding the announcement of quarantine in the territory of the Republic of Lithuania ([Nutarimas dėl karantino Lietuvos Respublikos teritorijoje paskelbimo](#)), 8 April 2020.

<sup>11</sup> Lithuania, Government of the Republic of Lithuania (*Lietuvos Respublikos Vyriausybė*), Decision regarding the announcement of quarantine in the territory of the Republic of Lithuania ([Nutarimas dėl karantino Lietuvos Respublikos teritorijoje paskelbimo](#)), 22 April 2020.

<sup>12</sup> Lithuania, Government of the Republic of Lithuania (*Lietuvos Respublikos Vyriausybė*), Decision regarding the announcement of quarantine in the territory of the Republic of Lithuania ([Nutarimas dėl karantino Lietuvos Respublikos teritorijoje paskelbimo](#)), 6 May 2020.

<sup>13</sup> Lithuania, Government of the Republic of Lithuania (*Lietuvos Respublikos Vyriausybė*), Decision regarding the announcement of quarantine in the territory of the Republic of Lithuania ([Nutarimas dėl karantino Lietuvos Respublikos teritorijoje paskelbimo](#)), 27 May 2020.

<sup>14</sup> Lithuania, Parliament of the Republic of Lithuania (*Lietuvos Respublikos Seimas*), Law on the Prevention and Control of Communicable Diseases in Humans ([Žmonių užkrečiamųjų ligų profilaktikos ir kontrolės įstatymas](#)), 25 September 1996.

<sup>15</sup> Lithuania, Government of the Republic of Lithuania (*Lietuvos Respublikos Vyriausybė*), Decision regarding the announcement of quarantine in the territory of the Republic of Lithuania ([Nutarimas dėl karantino Lietuvos Respublikos teritorijoje paskelbimo](#)), 7 November 2020.

<sup>16</sup> Lithuania, Government of the Republic of Lithuania (*Lietuvos Respublikos Vyriausybė*), Decision regarding the announcement of quarantine in the territory of the Republic of Lithuania ([Nutarimas dėl karantino Lietuvos Respublikos teritorijoje paskelbimo](#)), 26 November 2020.

<sup>17</sup> Lithuania, Government of the Republic of Lithuania (*Lietuvos Respublikos Vyriausybė*), Decision regarding the announcement of quarantine in the territory of the Republic of Lithuania ([Nutarimas dėl karantino Lietuvos Respublikos teritorijoje paskelbimo](#)), 26 November 2020.

<sup>18</sup> Article about protest at the Polish embassy:  
<https://www.15min.lt/naujiena/aktualu/lietuva/moteru-teisiu-gynejai-lenkijos-prezidento-vizito-proga-vilniuje-surenge-protesto-akcija-56-1409088#>

against COVID-19-related restrictions. In this case, police issued two fines for not wearing face masks and for not wearing face masks properly<sup>19</sup>.

## 2 Example(s) of promising practice

### 2.1 Support to NGOs during COVID-19

During the COVID-19 restrictions, many NGOs suffered various hardship situations. Some of them were forced to cancel events, service providers did not have supplies necessary to continue service provision safely, others did not have sufficient technologies (computers and programmes) to be able to continue work online. On 3 June 2020 the Ministry of Social Affairs and Labour introduced a EUR 2 million subsidy measure for NGOs<sup>20</sup>, which allowed up to EUR 10 000 subsidy per NGO. This measure enabled service providers to cover costs for necessary supplies (face masks, disinfectants, etc.), NGOs that were forced to stop activities were able to pay a downtime allowance to their employees, other NGOs renewed their technologies. In total 520 NGOs received a subsidy<sup>21</sup>. This was the first time such subsidy measures were implemented for NGOs, previously such measures were only available to businesses.

### 2.2 Innovative funding methods

The European Social Fund Agency (ESFA) introduced an innovative funding instrument "Alternative investment detector" (AID) which aims to support NGOs working in the field of social inclusion.<sup>22</sup> EUR 3.9 million will be distributed to organisations through an innovative application mechanism: instead of writing extensive grant applications, NGOs are required to submit a one-page document presenting a project idea and to later defend it at the commission of experts who are mainly representatives of NGOs<sup>23</sup>. The new instrument provides NGOs, which implement projects within AID, with expert consultations, mentoring and carries out the administrative side of the project for NGOs<sup>24</sup>. The new method sets an example for other governmental institutions showing them that it is possible to reduce bureaucracy and to focus on idea and impact even in governmental funding

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<sup>19</sup> Article about protest against COVID-19 measures: <https://www.vz.lt/verslo-aplinka/2020/11/21/per-protesta-vilniuje-surasyti-du-nusizengimu-protokolai>

<sup>20</sup> Lithuania, Ministry of Social Affairs and Labour (*Socialinės apsaugos ir darbo ministerija*), Order of the Minister of Social Affairs and Labour (*Socialinės apsaugos ir darbo ministro įsakymas*), 3 June 2020.

<sup>21</sup> Lithuania, Ministry of Social Affairs and Labour (*Socialinės apsaugos ir darbo ministerija*), [statistical data](#) on COVID-19 measures.

<sup>22</sup> Lithuania, European Social Fund Agency (*Europos socialinio fondo agentūra*), [information on Alternative Investment Detector](#).

<sup>23</sup> [Alternative Investment Detector's information](#).

<sup>24</sup> Lithuania, European Social Fund Agency (*Europos socialinio fondo agentūra*), information on [principles of execution of Alternative Investment Detector](#).

schemes. NGOs that receive mentoring and consultations, organised by AID, are set to achieve ambitious goals more successfully.

### **3 Any other developments**

#### **3.1 Institutional support to NGOs**

The new law on NGO development laid legal ground for an NGO foundation<sup>25</sup> (Article 9) and introduced an opportunity to provide sustainable support for NGOs. The NGO foundation aims to provide sustainable institutional support for NGOs. On 12 August 2020, the Government of the Republic of Lithuania adopted document stating the rules of operation of the NGO foundation<sup>26</sup>. Although the NGO foundation is not a separate legal body, a council is the main decision-making body which is composed of three representatives of NGOs (delegated by the National council of NGOs), three representatives of governmental institutions and one researcher in the NGO field. Such a decision-making body aims to ensure that the voice of civil society is heard, and that decisions are not only made by governmental institutions unilaterally. The new NGO foundation also has a stable source of income set in the Law. The source of finances for the NGO foundation is tied up with income tax law. Taxpayers may deduct 1.2 percent of their annual income tax and donate it to non-profit legal entities. The law on development of NGOs stipulates that the government, based on the amount donated to non-profit by the taxpayers through 1.2 percent mechanism, shall calculate no less than 20 % and transfer it to the NGO foundation (Article 9, para).

#### **3.2 Financing of civil society**

On 3 November 2020, the Constitutional Court of the Republic of Lithuania recognised that laws governing the financing of programmes and funds must not set a specific amount of State budget funds to be allocated to these programmes and funds<sup>27</sup>. The Court found that specific articles and paragraphs of the Law on the Environmental Protection Support Programme<sup>28</sup>, the Law on Waste

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<sup>25</sup> Lithuania, Parliament of the Republic of Lithuania (*Lietuvos Respublikos Seimas*), [Law on Non-governmental organisations](#), 1 March 2020

<sup>26</sup> Lithuania, Government of the Republic of Lithuania (*Lietuvos Respublikos Vyriausybė*), Decision regarding implementation of the Law on Development of Non-governmental organisations ([Nutarimas dėl Lietuvos Respublikos nevyriausybinų organizacijų plėtros įstatymo įgyvendinimo](#)), 12 August 2020

<sup>27</sup> Lithuania, Constitutional Court of the Republic of Lithuania (*Lietuvos Respublikos konstitucinis teismas*), Ruling regarding "[The laws governing the financing of programmes and funds must not set a specific amount of state budget funds allocated to them](#)", 11 November 2020.

<sup>28</sup> Lithuania, Parliament of the Republic of Lithuania (*Lietuvos Respublikos Seimas*), Law on the Environmental Protection Support Programme ([Aplinkos apsaugos rėmimo programos įstatymas](#)), 12 October 2000.

Management<sup>29</sup>, the Law on Financial Instruments for Climate Change Management<sup>30</sup>, the Law on the Cultural Support Fund<sup>31</sup> and some other laws conflict with constitutional provisions relating to the State budget process and the official constitutional doctrine. The constitution states that the parliament approves the State budget (Article 67), while the government prepares the draft State budget (Article 94). Therefore, laws that set a particular percentage of the State budget for a specific programme or fund, violate the constitutional rights of the government to form a State budget independently. This ruling prevents long-term (more than one year) financing programmes. It will have a negative effect on the sustainable financing of NGOs, because financing for long-term (more than one year) projects becomes uncertain until new sustainable financing mechanisms are developed by the government.

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<sup>29</sup> Lithuania, Parliament of the Republic of Lithuania (*Lietuvos Respublikos Seimas*), Law on Waste Management ([Atliekų tvarkymo įstatymas](#)), 16 June 1998.

<sup>30</sup> Lithuania, Parliament of the Republic of Lithuania (*Lietuvos Respublikos Seimas*), Law on Financial Instruments for Climate Change Management ([Klimato kaitos valdymo finansinių instrumentų įstatymas](#)), 7 June 2009.

<sup>31</sup> Lithuania, Parliament of the Republic of Lithuania (*Lietuvos Respublikos Seimas*), Law on the Cultural Support Fund ([Kultūros rėmimo fondo įstatymas](#)), 4 June 2007.