

Chapter 8

The interface between supra-national, sub-national and national levels of government in Lithuania

This chapter examines the multi-level dimension of regulatory policy at the sub-national and supranational levels. It looks at the allocation of regulatory responsibilities at the different levels of government, the capacities of local governments to produce quality regulation, and co-ordination mechanisms between the different levels of government. It also details the processes that are in place to manage the negotiation of EU regulations, and their transposition into national regulations, as well as the interface of national regulatory policy and governance with Better Regulation policies implemented at EU level.

Structures, responsibilities and funding of local governments

Structure of local governments

Lithuania is a unitary state. According to the Constitution, the right of self-government is guaranteed through 60 municipalities and elected municipal councils and mayors.¹ The local council is the municipality's legislative and decision-making body and is composed of members elected by direct universal suffrage for four years along with the mayor, who is also a member of the council. The local council adopts the budget, enacts local legislation, and has the power to establish smaller territorial units.

By local council decision, each municipality can be administratively divided into smaller territorial units (*seniunija*). These units are generally responsible for the provision of daily local services to citizens in a given municipal area. The territorial unit is headed by a civil servant (*seniūnas*) appointed by the director of the municipal administration.²

The size of municipalities varies significantly in terms of population. More than a third of the Lithuanian population live in five municipalities (Vilnius, Kaunas, Klaipėda, Šiauliai, and Panevėžys), which have the highest population density in Lithuania. These differences entail significant variations in the resources at the disposal of municipalities and, consequently, in the administrative capacity of municipalities.

Administratively, the country was divided in 10 counties with centrally-appointed governors and county administration. The county administrations were abolished in 2010. Counties still exist as territorial units. Ten central government representatives conduct legal checks over municipal acts.

Responsibilities and powers of local governments

Municipalities have **independent and delegated responsibilities or functions**.³

- Municipalities exercise their **independent functions according to the Constitution and the relevant legislation**. They have freedom of initiative, can adopt decisions and are directly responsible for the fulfilment of these functions.
- **State functions are delegated by the central government to municipalities**. Municipalities are free to take decisions, within the boundaries set by central government institutions. In some cases, delegated functions can be fulfilled through formal contracts between the central government and municipalities. Contracts usually apply to short-term and/or seasonal activities.

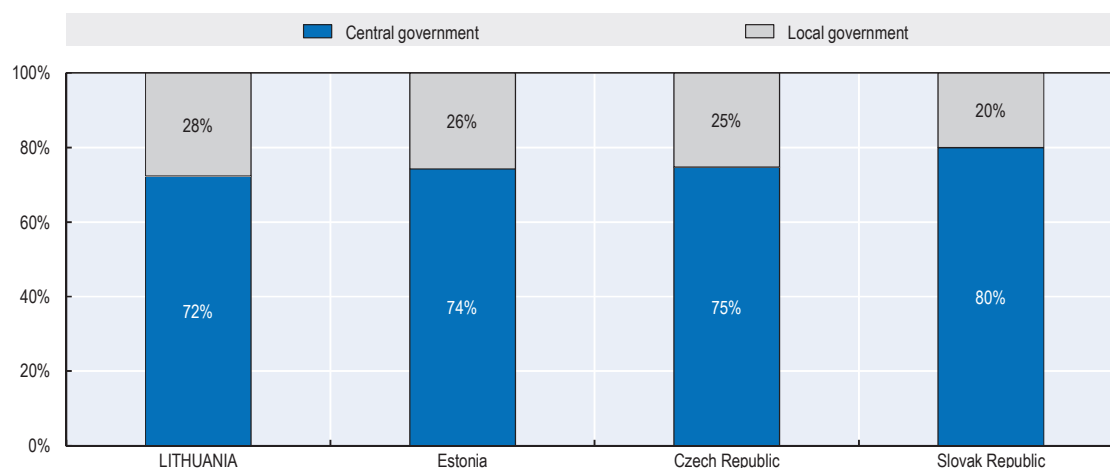
Municipalities cover a wide range of functions and provide basic public services such as pre-school, primary and secondary education; primary and secondary health care and public health services; culture, sports and tourism; environment, transport, sanitation and housing; promotion of entrepreneurship; and spatial planning and local development. Most of these functions are independent, which implies a certain degree of autonomy of municipalities (Table 8.1).

Table 8.1. **Municipalities' functions**

Independent functions	Delegated functions
Budgeting	Administration and registration of agriculture
Local fees and charges	Participation in local labour market measures
Management of municipal property	Management of local archives
Municipal establishments	Public registry services
Social maintenance	Social benefits
Territorial planning	Protection of children's rights
Local development	Administration of rural development measures
Spatial planning	State property management
Environmental protection	Participation in organisation of elections
Housing	Provision of state guaranteed primary legal assistance
Culture	Civil protection
Local public transport	Fire protection
Sanitation	Organisation of secondary health care according the law
Household waste	
Cemeteries	
Maintenance of local roads and public areas	
Education (pre-school, primary and secondary)	
Adult education (vocational training)	
Primary health care and public health services	
Libraries	
Local cultural centres and museums	
Social welfare	
Public safety and security	

Source: Art. 6 and 7, Law on Local Self Government, www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=474224; EU Committee of the Regions, <http://extranet.cor.europa.eu/divisionpowers/countries/MembersNLP/Lithuania/Pages/default.aspx>.

Lithuania's municipalities account for 28% of central and local government expenditures. This share is slightly above the share for the other OECD and EU peers (which are also unitary states) (Figure 8.1).

Figure 8.1. **Central and local government expenditures, 2013**

Note: The figure shows central and local government expenditures as share of the sum of the two. This sum represents general government expenditures minus spending of social security funds.

Source: Eurostat database, http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=gov_10a_main.

Notwithstanding the wide range of areas over which municipalities exercise some responsibilities, municipalities carry out primarily a service delivery and implementation role and have relatively limited regulatory powers. Regulations are set at the central level. Municipalities, however, do issue licences and permits, including, for example, construction permits, advertising licences or taxi licences.

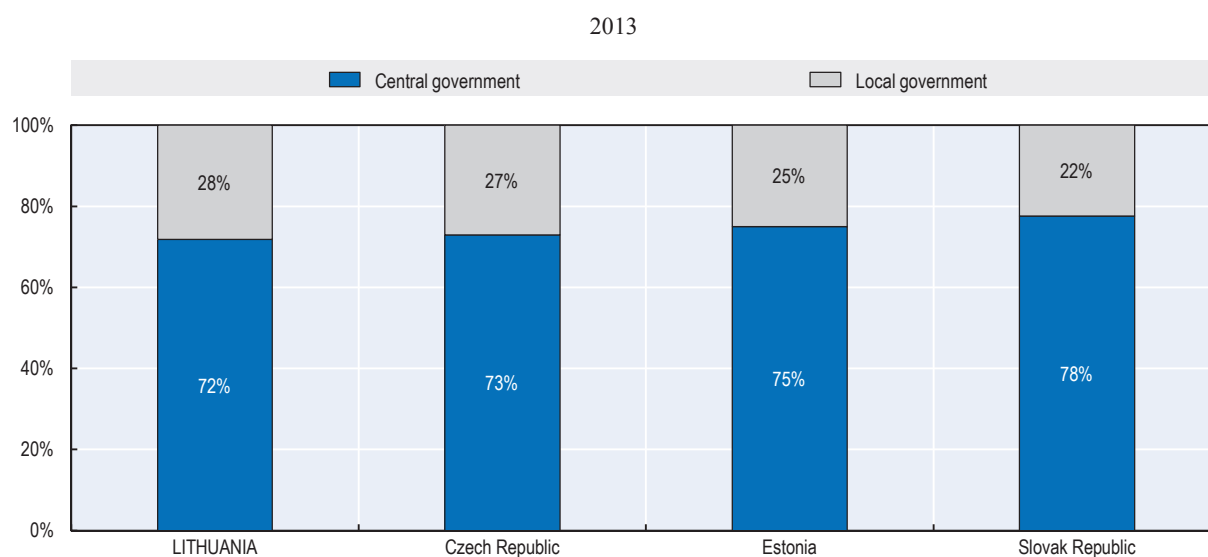
To carry out their responsibilities, municipalities set their own executive institutions. They provide certain public services directly or through contracts with private service providers. For example, Vilnius municipality provides water services through a contract with a service provider. However, municipalities cannot regulate prices (which are regulated by the national regulator).

The central government exercises some legal oversight over the activities of municipalities. The ten representatives of the central government check whether draft or approved legal acts of municipal institutions are consistent with national laws and regulations and can request the repeal or the amendment of municipal legal acts. Municipalities can appeal these requests in courts.

Funding of local governments

Municipalities account for 28% of central and local revenues, slightly above Lithuania's EU and OECD peers (Figure 8.2).

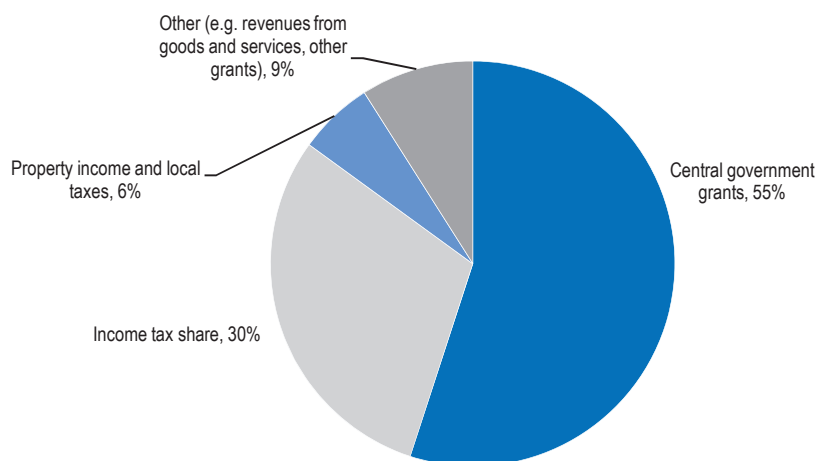
Figure 8.2. Central and local government revenues



Note: The figure shows central and local government revenues as share of the sum of the two. This sum represents general government revenues minus revenues of social security funds.

Source: Eurostat database, http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=gov_10a_main.

Municipalities' revenues come mostly from central government's grants and a share of the general income tax. Property incomes and local taxes, on which municipalities have some leeway, account for only 6% of municipalities' revenues (Figure 8.3).

Figure 8.3. **Municipalities' main revenue sources**

Source: EU Committee of the Regions, <http://extranet.cor.europa.eu/divisionpowers/countries/membersnlp/lithuania/pages/default.aspx>.

Better Regulation policies deployed at the local level

Central-local government agreements

The provisions of the Law on the Basics of Legislation apply to all rule-making entities at all levels, including municipalities. However, there is no central mechanism to ensure that municipalities comply with the law. The legal check on municipal acts conducted by the ten central government representatives posted across the country tends to focus on sensitive areas like public procurement as central government representatives have few staff to review municipalities' acts. Limited attention is devoted to legal quality or the consideration of possible burdens created by municipalities' administrative decisions.

The Better Regulation Supervisory Commission that was established in 2014 includes a representative of the Association of Local Authorities. There is relatively little support provided from the central government to municipalities to develop better regulation tools. In December 2014, the Ministry of Economy asked municipalities to produce information about initiatives on administrative burden reduction. The results show that 41 municipalities (out of 60) have administrative burden reduction plans or include reduction measures into municipal strategic plans. There seems to be limited co-ordination and follow-up on the implementation of these plans and measures.

The relatively high degree of autonomy of municipalities makes it difficult for the central government to influence decision making at the local level. This is a challenge that OECD members also face. Some of them have facilitated a direct involvement of the association of local governments in initiatives that are seen as serving also the purposes and objectives of local governments. For example, in Sweden, local governments have participated in the measurement of administrative burdens and the Swedish Local Government Association promotes standardisation and common administrative procedures across municipalities. In Denmark, local government associations actively participate in the design of simplification programmes that bring tangible results to local citizens like one-stop shops (Box 8.1).

Box 8.1. Co-ordination between central and local governments in Denmark and Sweden

In **Denmark**, the local association of municipalities (LGDK) participates in a Steering Group for Cross-national Initiatives (STS). This has actively involved municipalities in the discussion of methods and results in areas such as e-government initiatives and the De-bureaucratisation Programme. An example of policy based on co-operation between central and local government is the creation of a common citizens' portal. Following an annual agreement of 2007, the government has developed a portal, in co-operation with municipalities and regions. The portal provides a single guide to information regarding the public sector, and a common access for citizens to digital self-service solutions and access to own data across authority structures and levels. LGDK is also usually involved at a very early stage in the process of making rules, in an informal way.

In **Sweden**, the Swedish Agency for Economic and Regional Development – *Tillväxtverket*, a central government agency, has mapped the problems experienced by enterprises in their contacts with regional authorities and municipalities and possible solutions, in close co-operation with the Swedish Association of Local Government (SALAR). SALAR has also been active in identifying dysfunctional or unnecessary regulations created at the national level which impact on the local level. SALAR has also encouraged the standardisation of often diverging municipal approaches to the interpretation and enforcement of regulations.

Source: OECD (2010a), *Better Regulation in Europe: Denmark 2010*, OECD Publishing, Paris; <http://dx.doi.org/10.1787/9789264084551-en>; OECD (2010b), *Better Regulation in Europe: Sweden 2010*, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264087828-en>.

In Portugal, the government has developed a simplification programme specifically addressed to municipalities. The *Simplex Autárquico* Programme (Simplex for Municipalities) was launched in 2008 to involve municipalities in simplifying administrative procedures in areas where both the central government and municipalities are involved (licences, certificates, and inspections). In keeping with their autonomous status, the *Simplex Autárquico* Programme is based on a voluntary participation of municipalities. It started with initiatives proposed by nine municipalities, to grow to more than 120 municipalities (out of the 308 municipalities that exist in Portugal).⁴ The programme covers both specific action and sharing of experiences and peer-learning across municipalities (Box 8.2).

Box 8.2. Examples of Simplex *Autárquico* measures

Licences, prior authorisations and other similar administrative procedures (inter-sectoral measure)

- Gradually integrate into a single nationwide catalogue all licences and prior authorisations which affect the activities of citizens and companies and require interaction with municipalities. The catalogue will identify the types of licences, the procedures, the time and cost for obtaining the licence. It will provide a single point of access to all licensing procedures.
- Prepare technical guides and create a common set of indicators for monitoring the impact on municipalities of new licensing requirements in the field of urban planning and construction, industrial, commercial and touristic activities (such as the number of requests by type or procedure, response times).

Box 8.2. Examples of Simplex *Autárquico* measures (cont.)

- Dematerialise the procedures for obtaining licences and permits and allow for interaction with municipalities.

Consolidation of municipal regulations through exchanges of best practices (inter-municipal measure)

- To disseminate experience of participating municipalities in the area of consolidation of municipal regulations (rules and methods); and
- To implement legal techniques and tools to allow for permanent updating of regulations and make it available on line.

Source: OECD (2010c), *Better Regulation in Europe: Portugal 2010*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264084575-en>.

Initiatives developed by municipalities

Municipalities' size, capacity and, accordingly, impact on the local business environment vary as, understandably, initiatives to strengthen regulatory policy. Large municipalities like Vilnius tend to be more proactive in improving regulations, for example by proactively reaching out to stakeholders. Impact assessment is generally not conducted on municipal acts.

Consultation and communication

Recently, municipalities have developed e-tools for increasing e-democracy in their communities, for example, enabling people to find information of all decisions that are being drafted by the municipalities, to provide their comments and suggestions, to view municipalities' councils' meeting on-line, to discuss and share opinions on-line. However, municipal acts are still posted on local websites and not yet systematically put on the central legislative portal (www.e-Tar.lt).

Co-ordination mechanisms

The Association of Local Authorities (ALA) in Lithuania represents the interests of all municipalities vis-à-vis the executive, other state institutions and international organisations. The ALA is governed through a Board composed of 20 mayors that meets monthly.

ALA representatives participate in the meetings of ministries' representatives (vice-ministers, chancellors of the ministries) chaired by the Government Chancellor (held every Tuesday), as well as the government meetings chaired by the Prime minister (held every Monday and Wednesday).

Draft legislation is consulted with the ALA, which shares it with municipalities and collects inputs. However, consultations tend to be largely formal and have limited impact on the development of the legislation. This result might also reflect the search for a common position across the 60 municipalities, which however have different interests and priorities. In particular, large municipalities are underrepresented within the ALA and are setting up networks and alternative co-ordination mechanisms.

The interface between the national level and the EU

Negotiation

The process for co-ordinating the position of Lithuania in the negotiation process is standard and similar to many OECD countries which are members of the EU. It is described in a resolution of the government from 2014.⁵ Individual line ministries are responsible for drafting positions in their areas of competence. It is the responsibility of the ministry to consult the position with other ministries and/or socio-economic partners. Working groups might be set up if needed and in case the issue discussed falls under the competence of two or more ministries or agencies

The Ministry of Foreign Affairs is in charge of co-ordinating the preparation of Lithuanian positions with regard to the legislative proposals within the European Union. A draft position, which falls under the competence of two or more state institutions and on which the state institutions concerned fail to reach an agreement, is then brought to a special inter-agency meeting, co-ordinated by the Ministry of Foreign Affairs. If no compromise is reached, the matter is brought before the Governmental Commission on the EU Affairs. If still no decision is possible, the issue is referred to the meeting of the Government of the Republic of Lithuania.

Draft positions for the European Council and the Council of EU meetings are adopted by the Governmental Commission on the EU Affairs and endorsed by the government. The ministry in charge is also responsible for receiving the approval of the draft position by the relevant Committee of the Parliament.

A special information system called LINESIS has been designed to enable automatic distribution of documents received from the EU institutions. It enables online co-operation among state institutions involved in the negotiation process in real time. Even selected NGOs and social partners have access to this system which enables them to submit their views and comments before the official position is prepared and to monitor the process of implementation.

A typical position should contain an impact assessment of the legislative draft. This is something which is rather rare even among OECD countries, however, the quality of the assessments elaborated by responsible institutions varies and is rarely sufficient. Strengthened control of the quality of these impact assessments in co-operation with the body responsible for checking the quality of ‘standard’ impact assessments (those accompanying draft laws submitted to the government) could lead to improvements in the quality of impact assessments and therefore better background documents used in the negotiation process.

In Germany, it is the *Normenkontrollrat* that co-operates with some ministries but also the European Commission in elaborating “national” impact assessments on the Commission’s legislative proposals. The UK Government’s *Guiding Principles for EU legislation* state that “Departments will endeavour to seek clearance for their proposed UK negotiating position promptly. Departments should analyse the order of magnitude of likely impacts of different negotiating options to help Ministers make evidence-based decisions. The analysis should be proportionate to the proposal and time available and be presented succinctly.”⁶

Transposition

The process of transposition and implementation of the EU law in Lithuania is highly centralised and well regulated. The Constitution provides for the main principle that the norms of *acquis communautaire* shall be an integral part of the legal order of the Republic of Lithuania. A detailed system of allocation of institutional responsibilities and procedural aspects of co-ordination and monitoring of the implementation process is set by the Law on the Government and the Government Resolution No. 21.

The European Law Department of the Ministry of Justice is the main body co-ordinating and monitoring the transposition of the *acquis communautaire* in Lithuania. When a piece of legislation is published in the Official Journal of EU, the EU Law Department registers the draft in LINESIS and assigns the draft to the competent ministry or other institution. One institution is always chosen as the responsible one even though several institutions might be later involved in the process. The responsible institution then prepares a *Plan for transposition and implementation of the EU law* which is then updated in real time.

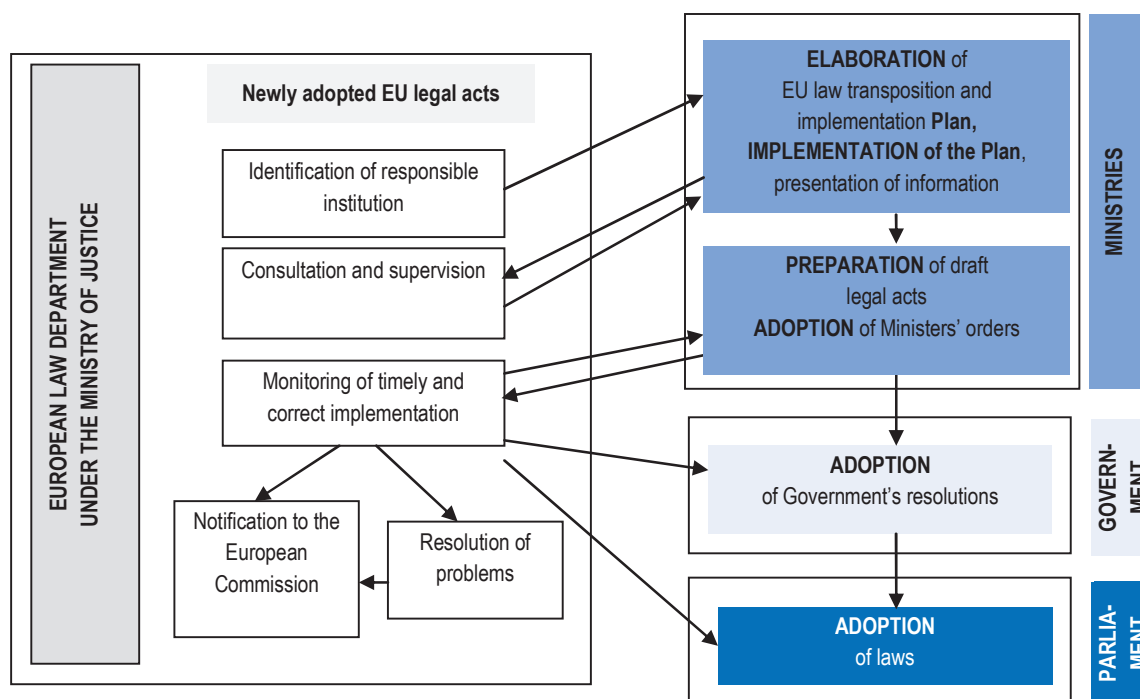
Within 3 weeks after the assignment, the responsible institution has to come up with a description of concrete measures needed to implement the draft (e.g. drafting a new law, amending an existing one, administrative measures) and the deadlines for their preparation and adoption. The European Law Department supervises how the institutions are following the plan and the deadlines. The progress in implementing EU laws is discussed monthly at the meetings of the Government's EU Affairs Commission and sometimes, if necessary, presented to the government or the parliament. Co-ordination meetings are organised by the European Law Department in case of disputes and conflicts among institutions. These might be then discussed at the level of the EU Affairs Commission or even at the level of the government.

A correlation table has to be prepared and attached to every single draft legal act which is implementing the EU legal act. The European Law Department then reviews the table with its EU law legal experts. All the correlation tables must be uploaded to LINESIS. The European Law Department also reviews draft laws prepared by the Parliament for their consistency with EU legislation. In addition, the Department has a right to conduct *ex post* reviews of the existing legislation for their consistency with EU legislation, however, this right is used rather scarcely.

The *ex post* evaluation of regulations on the consistency with EU legislation takes place in the following cases: *i*) The European Law Department receives a draft law which is amending one of the existing legal acts that are transposing or implementing EU legislation; *ii*) The European Law Department receives an opinion from the public or private bodies that an EU law was implemented incorrectly; *iii*) The European Law Department by its own initiative identifies the need to ensure consistency; *iv*) The European Law Department receives a judgement from European Court of Justice and decides that national implementing measures must be re-evaluated and laws need to be amended.

The transposition process is described in Figure 8.4.

Figure 8.4. The process of transposition of EU legislation in Lithuania



Source: The response of the Lithuanian government to the OECD questionnaire.

One of the issues of the transposition process is the fact that the civil servant(s) that was/were participating in a negotiating process on a particular piece of legislation at the EU level is not involved in its transposition. Therefore, the institutional memory the person might have is not fully used.

The issue of gold-plating

Special attention is paid to the issue of gold-plating. Despite the fact that there are no official statistics on the extent of the problem, the officials interviewed confirmed to the review team that gold-plating presents a big issue in Lithuania. The European Law Department is formally responsible for reducing administrative burdens during the process of EU law transposition. According to the Statute on functions of the European Law Department it has a power to evaluate compliance of draft laws or draft resolutions implementing EU laws with better regulation principles, especially regarding administrative burden reduction. At the moment the identification and evaluation of “gold-plating” cases is organised on ad hoc basis. There are no concrete recommendations or instructions on how to avoid gold-plating.

To better formalise the process of preventing gold-plating, the European Law Department is carrying out an EU funded project “*The assessment and reduction of administrative burden imposed on business during the implementation of EU law*”. Its main aim is to create a set of recommendations for public institutions and a concrete methodology for preventing creation of unnecessary administrative burdens in the process of EU law implementation. The set of recommendations is going to be used in the future as a basis for *ex ante* control of draft laws. The main recommendations are described in Box 8.3.

Bibliography

- Government of Portugal (2011), “Relatório do Simplex autárquico 2010/2011”, www.simplex.pt/downloads/relatorio%20simplex%20autarquico%202010_11.pdf.
- OECD (2012), “Recommendation of the Council on Regulatory Policy and Governance”, www.oecd.org/gov/regulatory-policy/2012recommendation.htm.
- OECD (2010a), *Better Regulation in Europe: Denmark 2010*, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264084551-en>.
- OECD (2010b), *Better Regulation in Europe: Sweden 2010*, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264087828-en>.
- OECD (2010c), *Better Regulation in Europe: Portugal 2010*, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264084575-en>.



From:
Regulatory Policy in Lithuania
Focusing on the Delivery Side

Access the complete publication at:
<https://doi.org/10.1787/9789264239340-en>

Please cite this chapter as:

OECD (2015), "The interface between supra-national, sub-national and national levels of government in Lithuania", in *Regulatory Policy in Lithuania: Focusing on the Delivery Side*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/9789264239340-13-en>

This work is published under the responsibility of the Secretary-General of the OECD. The opinions expressed and arguments employed herein do not necessarily reflect the official views of OECD member countries.

This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

You can copy, download or print OECD content for your own use, and you can include excerpts from OECD publications, databases and multimedia products in your own documents, presentations, blogs, websites and teaching materials, provided that suitable acknowledgment of OECD as source and copyright owner is given. All requests for public or commercial use and translation rights should be submitted to rights@oecd.org. Requests for permission to photocopy portions of this material for public or commercial use shall be addressed directly to the Copyright Clearance Center (CCC) at info@copyright.com or the Centre français d'exploitation du droit de copie (CFC) at contact@cfcopies.com.