



Infrastructure Governance in Lithuania

The added value of CoST in high-income countries: Lithuania case study



March 2019

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LIST OF ABBREVIATIONS

CoST	CoST – the Infrastructure Transparency Initiative
GDP	Gross domestic product
EU	European Union
FOI	Freedom of information
IDS	CoST Infrastructure Data Standard
NAO	Lithuania National Audit Office
NGO	Non-government organisation
OECD	Organisation for Economic Co-operation and Development
PPO	Lithuania Public Procurement Office
PPP	Public–private partnership
SIP	Lithuania State Investment Programme

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EXECUTIVE SUMMARY

This case study by CoST – the Infrastructure Transparency Initiative (CoST), in partnership with Transparency International Lithuania (TI Lithuania), aims to provide an overview of existing policies and practices governing infrastructure planning and delivery in Lithuania and to review the level to which institutional innovations embracing transparency, participation and accountability are in place. It concludes by assessing the potential added value of adopting the CoST core features of disclosure, assurance and multi-stakeholder working.

STRATEGIC PLANNING

The study focuses on public infrastructure delivery in Lithuania through the Government's capital investment programme, known as the State Investment Programme (SIP). From 2006 to 2016 the average annual budget for infrastructure projects channelled through the SIP was €1.3 billion.

The programme was set up in 1997 to secure funding for strategic infrastructure projects and, 20 years after its creation, a review of the extent to which it has accommodated innovative practices is timely. Although Lithuania's infrastructure scores favourably compared to other countries in Eastern Europe, it needs to invest and manage its resources more efficiently to get more value for money from public infrastructure.

Infrastructure investment is a Government priority, but it is difficult to obtain detailed data on how much is spent with figures complicated by different sources of financing and levels of execution. Regardless of the exact figures, it is clear that significant investments over the past years will give rise to increased maintenance costs in the future. This growing pressure on expenditure makes prioritisation in the selection of infrastructure projects and efficient management of resources allocated to them even more crucial.

The SIP is one of many strategic policy documents and in recent years it has not set out a clearly defined strategy for Lithuania's infrastructure priorities. Responsibility for infrastructure is decentralised and no central institution overlooks infrastructure planning and implementation. Although the Ministry of Finance coordinates the SIP, it does not set out its priorities or long-term plans, which leaves infrastructure development

vulnerable to changes in political cycles. While it is inevitable that politics play a role in infrastructure decisions, they benefit from a broad-based, long-term strategic vision informing strategic priorities.

The limitations in strategic planning carry over to the infrastructure project cycle, where SIP projects are prioritised and selected by procuring entities without sufficient strategic orientation. Hence, political will and funding opportunities become the main drivers for project selection, meaning they lack both strategic vision and rigorous appraisal processes. In addition to the lack of coherent planning, the atmosphere of uncertainty and instability has negative consequences on infrastructure projects. Funding is allocated annually and subject to change, so projects have no year-on-year funding stability.

Moreover, public procurement entities regularly suspend project implementation or extend the project implementation phase exceeding the planned timeline for completion. It is unclear how, and why, public procurement entities decide to decrease and reallocate project funding or intervene during the implementation stage. The formal infrastructure cycle thus suffers from numerous weaknesses. Increased transparency, participation and accountability would therefore strengthen the value for money from infrastructure investments in Lithuania.

Despite the above issues, Lithuania has produced various examples of good practice and innovative mechanisms. Lithuanian citizens can now access visualised and systematic information on annual financial flows to different sectors such as infrastructure, and this is published by the Ministry of Finance. Lithuania has also been a member of the Open Government Partnership since 2011, committing to publishing online information about the revenues and spending of national and municipal institutions. The current measures of transparency, participation and accountability however show there is room for improvement in infrastructure governance.

INFRASTRUCTURE TRANSPARENCY

Currently it is not possible to get detailed SIP infrastructure project or contract data from quarterly, biannual and annual budget expenditure reports. However, when data is obtained through procuring entity websites and other sources, the levels of transparency benchmarked against the CoST Infrastructure Data Standard (IDS) are reasonable when compared with other countries.

This study reveals that procuring entities are legally required to make almost all the data (92.5%) recommended by the CoST IDS available to Ministries or oversight institutions. However, there is only a legal obligation proactively to disclose 32% of the data and this is confined

to the tendering process. It does not include information related to the infrastructure project cycle, which is often of more interest to the broader public.

In practice the Government discloses significantly more data than is legally required to the public, equivalent to 65% of what is recommended by the CoST IDS. Disclosing two-thirds of CoST IDS required data is a strong starting point for adjusting the legal framework to ensure this information is disclosed proactively and to international best practice standards of infrastructure transparency. Importantly the disclosed data is scattered, disjointed and not easy to access. Making this type of information more easily available for example through a unified, online, open data platform will strengthen trust in the Government and facilitate stronger accountability mechanisms to be applied in the use of public resources and ultimately more value for money.

STAKEHOLDER ENGAGEMENT

Lithuania has a limited tradition of citizens' participation in public policy making and this study shows that stakeholder participation in the infrastructure project cycle is nascent but evolving. This is the situation in a time when an increasing body of literature suggests that lack of participation harms the quality of the decision-making processes, fuels opposition from groups affected by specific projects and increases project-related uncertainties and risks. The Organisation for Economic Co-operation and Development also assigns great importance to citizens' engagement in policy-making in general and infrastructure in particular.

Based on a selection of projects from the five highest SIP-spending public procurement entities in 2016, the study found that two thirds extended stakeholder engagement to information sharing while a third used consultation. No projects were based on active participation of stakeholders. To take stakeholder participation in the infrastructure project cycle to the next level, the Government needs to implement specific policy initiatives to shift historical trends in citizen engagement and identify proven approaches, tools and standards specifically tailored to infrastructure projects. Project managers currently lack knowledge of how to conduct participatory processes. There is a potential for building on emerging experiences and the Government is actively seeking to establish a methodology for public consultations.

ACCOUNTABILITY

Infrastructure projects exceeding both projected time and budget and not delivering intended outcomes is a challenge worldwide. Better oversight and control throughout the infrastructure project

cycle is one of the measures needed to address this problem alongside increased transparency and stakeholder engagement. Lithuania has relatively strong ex-post oversight and control institutions in place, including the National Audit Office and Public Procurement Office. Internal control mechanisms are also in place. These institutions have intervened at various stages of the project cycle, calling for improvements and in some cases resulting in substantial savings, but not in a systematic manner and not always able to enforce accountability.

As in many other countries, project appraisal and selection are not subject to any independent scrutiny or arms-length reviews even though this is considered good practice. Moreover, there is no legislation or detailed guidelines instructing which public procurement entities have to produce evaluations and internal control mechanisms, and there is no legal obligation to make these evaluations public. Whistle-blower mechanisms that could encourage insiders to speak up are not systematically applied in the sector despite the construction industry being widely perceived as one of the most vulnerable to corruption.

OPPORTUNITIES FOR IMPROVEMENT

This case study has found that Lithuania could strengthen infrastructure governance by increasing the levels of transparency, stakeholder participation and accountability. These are concepts that are at the centre of CoST. The CoST core features of disclosure, multi-stakeholder working, assurance and social accountability resonate with the Lithuanian Government's commitment to greater transparency, participation and accountability in the public sector, taking another step towards open government and improving infrastructure governance.

Drawing on CoST expertise in relation to disclosure could provide Lithuania with clear guidelines on what to release to the public, which would raise the bar and potentially turn the country into a regional leader on infrastructure transparency. CoST has supported numerous countries facilitating disclosure through standardisation of disclosure, development of manuals and institutionalising disclosure. The latter is usually achieved through legal reform and the issuing of a formal disclosure requirement in the form of a decree or directive.

CoST also has experience in supporting countries disclosing data through online, open source platforms, which eases access and visualises data in a user-friendly manner. In Lithuania, this could be built around the SIP, which contains the majority of national infrastructure projects, while local governments could be linked up adding smaller-scale projects in their respective areas.

The CoST core feature of multi-stakeholder working represents an approach and standard for sustained and constructive engagement, not only of civil society but also of the private sector in infrastructure planning and delivery. It entails as a fundamental principle that stakeholders must have a seat at the policy table and participate as partners in decision-making. It offers a structured forum for discussing different options and tackling issues that tend to emerge further down the project cycle if left unaddressed. Reaching agreement about strengthening stakeholder engagement and identifying the best tools and standards can take time. However, the timing seems opportune in Lithuania given the Government's stated commitment to create a methodology for strengthening public engagement to be delivered by July 2019.

The CoST assurance process is a regular and systematic, independent review of disclosed data, verifying the accuracy of the disclosed data and issues of concern for the public. An assurance process should not be confused with an audit function, but it has the potential to complement the work of oversight institutions such as the National Audit Office. It is evident that such institutions already carry out important and effective work to promote accountability but, given other priorities and limitations to resources, they fall short of providing regular (e.g. annual or biannual) reviews of infrastructure investments.

Given the existing expertise and competence in ex-post controls in Lithuania, assurance could be set up to pay more attention to the earlier phase of the infrastructure project cycle, reviewing data disclosed on project specifications and contractual obligations. The process also holds the potential for providing independent reviews of projects at the appraisal stage, thereby introducing good practice and potentially more efficient delivery of projects on time and on budget.

Drawing from the findings of this report, CoST and TI Lithuania have five recommendations aimed to improve infrastructure governance and ensure efficient infrastructure planning and delivery.

The five recommendations are as follows:

1. Ensure that the reforms to SIP strengthen coherent long-term infrastructure planning. A long-term infrastructure plan should change short-term thinking influenced by political cycles and allow managing authorities to prioritise more effectively.
2. Introduce clearly-defined criteria to evaluate the success of infrastructure projects. Public sector institutions should measure the impact of implemented infrastructure projects and present these insights in an accessible and comprehensible manner. These should be subject to independent review.
3. Disclose, validate and review data according to the CoST IDS to increase the level of transparency and accountability of infrastructure projects through a unified, online, open data platform. This would allow interested parties to be better informed about the progress of infrastructure projects, scope of completion, reasons for budget changes and other key information.
4. Develop guidelines to engage better with different stakeholders and systematically involve interest groups. Working with stakeholders would allow better identification of the needs for possible infrastructure projects and reduce risks and uncertainties. The Government should establish practical guidelines for successful public participation from the project inception stage, drawing on experience with the use of multi-stakeholder working and social accountability.
5. Strengthen the accountability of infrastructure investments by drawing on the experience with independent review of data disclosed throughout the infrastructure project cycle. This will give assurance to citizens that public money is being spent properly and efficiently and delivering value for money. ■

1. INTRODUCTION

This case study was commissioned by CoST – the Infrastructure Transparency Initiative (CoST) and carried out in partnership with Transparency International Lithuania (TI Lithuania). It aims to provide an overview of existing policies and practices governing infrastructure planning and delivery in Lithuania and to review the extent to which institutional innovations embracing transparency, participation and accountability are in place.

The case study assesses the extent to which adopting CoST and its core features of disclosure, assurance and multi-stakeholder working could add value to existing practices in Lithuania, with the end goal of getting better value for money from public infrastructure investments.

This is the third case study published as part of a research programme investigating the potential added value of CoST in high-income countries. The study focuses on public infrastructure delivered through the Lithuanian Government's capital investment programme, known as the State Investment Programme (SIP), and its implementation through major public procurement entities. The SIP was established in 1997 with the aim of reducing the number of unfinished construction projects around the country and better meeting social and civic needs. After 20 years of the programme's implementation, it is timely to examine if the institutional framework has adopted increasingly valued concepts such as openness, transparency, accountability and stakeholder engagement.

METHODOLOGY

To provide a detailed picture of infrastructure planning and delivery through the SIP and major public procurement entities, researchers drew on numerous secondary sources such as existing sociological surveys, academic articles, audit reports and media articles. This secondary data was complemented by primary data, obtained from 20 in-depth interviews with policymakers, regulatory and oversight bodies, private sector representatives, experts and active citizens. Interviews were semi-structural and confidential, which was important in gleaning additional information not on the public record, to gather evidence on the implementation of regulations and, more generally, implementation in practice.

The legal framework has been analysed extensively, including strategic national documents, laws, Government programmes and decrees of public sector institutions.

To measure typical levels of infrastructure transparency, a sample of infrastructure projects carried out by Lithuanian Railways and the Lithuanian Road Administration, both being among the five biggest procuring entities for SIP projects in 2016, was selected.¹ The CoST Infrastructure Data Standard (IDS) was then used as a benchmark to measure how many of the 40 data points are legally required to be disclosed and how many are proactively disclosed in practice by making them available on the procuring entities' websites and in the Central Public Procurement Portal.² The study also measured how many data points procuring entities are legally required to report to overseeing institutions and how many data points that are not proactively disclosed could be made available through a freedom of information (FOI) request.

To measure typical levels of participation in infrastructure planning and delivery, a sample of six major infrastructure projects was selected and benchmarked against a scale of information sharing, consultation and active participation used by the Organisation for Economic Co-operation and Development (OECD).³ Due to the lack of publicly available information, the information was acquired through FOI requests to the Ministry of Finance, the Ministry of Transport and Communications, the Ministry of Energy, the state-owned enterprise Lithuanian Railways and the Lithuanian Road Administration under the Ministry of Transport and Communications, all of which are major public procuring entities. The aim of those FOI requests was to gather data about the consultation process to see how procuring agencies engage citizens in decision making. This data complemented the qualitative data collected through interviews.

The research and data collection for this study was undertaken and analysed during the second half of 2017 and the first quarter of 2018. There have since been changes to the rules for preparing the SIP that were introduced after recommendations from the National Audit Office to ensure SIP funds were managed more effectively.

1 Please note that the sample is not statistically representative for infrastructure projects in Lithuania

2 Central Public Procurement Portal, Notice search, available at: cvpp.eviesiejipirkimai.lt

3 Organisation for Economic Co-operation and Development, Lithuania: Fostering Open and Inclusive Policy Making, OECD Public Governance Reviews, OECD Publishing, Paris, 2015, p.67, available at: read.oecd-ilibrary.org/governance/lithuania-fostering-open-and-inclusive-policy-making_9789264235762-en#page1

A Government decree introduced a number of amendments, the most important ones being as follows:⁴

- Before 2018, it was a common practice to reward new projects without finishing the ongoing ones. To eliminate this practice the Government has introduced specific criteria for new SIP projects, such that they now have to be either closely related to the works planned in the Programme of the Government, be part of international commitments or create long-term social value.
- For new projects to be considered for SIP, applications must now include economic calculations about the funds needed for maintenance.
- Every institution now has to exact criteria for SIP projects to be considered for funding. Criteria and evaluations should be made public.
- The threshold for projects to be included has been raised to €360,000 for infrastructure projects and €100,000 for information and communications technology projects. ■

⁴ Government of the Republic of Lithuania, Decree No. 749, 2017, available at e-tar.lt/portal/legalAct.html?documentId=7430ab80a1c711e7a5baf031c7d2d3c7



Map courtesy of Michael R. Meuser, Mapcruzin

2. BACKGROUND

With an area of 65 000 km² and a population of 2.9 million, Lithuania is a relatively small country located in the Baltic. With a per capita gross domestic product (GDP) of €13 500, Lithuania is firmly within the World Bank's classification as a high-income country and as an advanced economy by the International Monetary Fund.^{1, 2} According to the Bank of Lithuania, the country's GDP is growing and will expand by 3.2% in 2018 and 2.7% in 2019.³ The resurgence of economic activity has led to an upturn in non-residential construction projects.⁴

Lithuania was a planned economy until a constitutional change in 1992, which radically transformed its governance to a multi-party system. It has been a member of the European Union (EU) and North Atlantic Treaty Organization since 2004 and a member of the Organisation for Economic Co-operation and Development (OECD) since 2018. The prospect of OECD membership served as a substantial catalyst for policy changes in the country and has led to growing interest in anti-corruption in public policy.

While transition from the legacy of Soviet rule is generally considered to have been successful, the OECD has found that there is still considerable room to consolidate constructive, forward-looking policy and reform initiatives, in particular when it comes to openness and inclusiveness as mainstream elements of contemporary public policy making.⁵

Levels of trust in the Government are low and corruption is significant compared to other EU countries. Over 20% of Lithuanians have admitted to paying a bribe to receive public services, the second highest rate in the EU.⁶ Lithuania scores 59 on the Corruption Perception Index and

1 The World Bank, Data for Lithuania, High income, 2018, available at data.worldbank.org/?locations=LT-X

2 International Monetary Fund, World Economic Outlook, April 2015, available at: www.imf.org/external/pubs/ft/weo/2015/01/pdf/text.pdf

3 Bank of Lithuania, Latest economic projections, 2018, available at: www.lb.lt/en/latest-economic-projections

4 Ibid

5 Organisation for Economic Co-operation and Development, Lithuania: Fostering Open and Inclusive Policy Making, OECD Public Governance Reviews, OECD Publishing, Paris, 2015, p.35, available at: oecd.org/publications/lithuania-fostering-open-and-inclusive-policy-making-9789264235762-en.htm

6 European Commission, Flash Eurobarometer 428: Businesses' attitudes towards corruption in the EU, 2015, available at: data.europa.eu/euodp/data/dataset/S2084_428_ENG

is ranked 38 out of 180 countries.⁷ Corruption affects the construction industry to a large extent. The State Territorial Planning and Construction Inspectorate, which is responsible for supervising construction in Lithuania, is perceived as one of the most corrupt institutions in the country.

Nevertheless, the country scores reasonably well on indicators measuring quality of infrastructure in comparison with other EU countries. It ranks 13 of 26 countries on the quality of its rail infrastructure, 16 out of 28 on roads and, in its weakest area, 21 out of 28 on quality of airport infrastructure.⁸ According to the International Monetary Fund, the quality of Lithuania's infrastructure is markedly better than that of other countries in central, eastern and south-eastern Europe and emerging economies.⁹ However, its rail network is one of the least electrified in the EU, and road fatalities are amongst the highest. Improving these indicators is expected to be the focus of infrastructure investments in the coming years.¹⁰

Public investments in infrastructure are substantial, with funds deriving predominantly from the following three sources: the state budget, municipal budgets and EU funds.

According to Ministry of Finance data, municipalities spent around €401 million on infrastructure (16.9% of total expenses) in 2016, with the largest budgets allocated in the capital city Vilnius (€118 million), Kaunas (€29 million) and Marijampolė (€24 million).^{11,12}

Between 2007 and 2013 Lithuania had 1875 infrastructure projects financed by the EU at a total cost of €3513 million.¹³ More than half of the infrastructure projects planned for the 2014–2020 period (58%) will benefit from EU funds.¹⁴ The project portfolio includes projects in the areas of: energy efficiency and renewable energy sources (€914.7 million); environmental protection (€918.4 million); transport

7 Transparency International, Corruption Perceptions Index 2017, available at: www.transparency.org/news/feature/corruption_perceptions_index_2017

8 European Commission, Mobility and Transport, Lithuania Country information, 2018, available at: ec.europa.eu/transport/facts-fundings/scoreboard/countries/lithuania/investments-infrastructure_en

9 International Monetary Fund, Regional Economic Issues: Central, Eastern, and Southeastern Europe Effective Government for Stronger Growth, November 2016, p. 35, available at: www.imf.org/~media/Websites/IMF/imported-flagship-issues/external/pubs/ft/reo/2016/eur/eng/pdf/_rei1116pdf.ashx

10 European Commission, Country Report Lithuania 2017, p. 35, available at: ec.europa.eu/info/sites/info/files/2017-european-semester-country-report-lithuania-en.pdf

11 Ministry of Finance, response to FOI request by Transparency International Lithuania, received on 10 November 2017

12 Ibid

13 Ministry of Finance, response to FOI request by Transparency International Lithuania, received on 11 October 2017

14 Technically the funds may be utilised until 2023

(€1022.8 million); education and social security (€503.1 million); and regional development (€537.4 million).

There is no precise aggregate figure on the amount of public spending on infrastructure in Lithuania.¹⁵ It is partly funded by SIP with funds coming from the state budget, the Privatisation Fund, and loans received on behalf of the state or with the state's guarantee.¹⁶ From 2006 to 2016 the Government spent on average €1.3 billion a year on infrastructure through the SIP.¹⁷ This overall spending level is set to continue, with the Government planning to invest €3.8 billion through the SIP during the period 2018–2020.¹⁸

Given the significant investments in new infrastructure over the past couple of decades, affordability of maintenance costs is bound to become an issue of major concern in the near future. To manage this pressure on expenditure, the Government would benefit from improved prioritisation of infrastructure project selection based on economic and social viability as well as increased efficiency of investments in public infrastructure. ■

15 Financial reports on national and municipal level do not have specific lines for infrastructure expenses. Ministry of Finance confirmed to Transparency International Lithuania (on 9 November 2017) that it is not possible to filter financial data based on infrastructure criteria

16 Ministry of Finance, State Capital Investment, 2015, available at: finmin.lrv.lt/en/competence-areas/budget/state-capital-investment

17 Ministry of Finance: Expenditure dataset SIP 2006-2016, unpublished

18 Parliament of the Republic of Lithuania, Decree No. 340, 2018, available at e-seimas.lrs.lt/portal/legalAct/lt/TAD/b10a3db13d7011e884a38848fe3ec9e2?jfwid=-15zxv4hvk



3. GOVERNANCE MECHANISMS

Responsibility for infrastructure investments in Lithuania is decentralised, with no central institution overseeing the planning and implementation of infrastructure work. The Ministry of Finance coordinates the State Investment Programme (SIP), however it does not set priorities for participating institutions and is not responsible for long-term infrastructure planning in Lithuania.

STRATEGIC AND LEGAL FRAMEWORK

The SIP is executed in accordance with the priorities of the Lithuanian Government and the strategic aims set out by several long-term documents. These documents are not intended to, and do not, exclusively deal with planning of infrastructure investment, but serve as guidelines for strategic national development.

The strategies set the groundwork for the annual state budget, and the SIP is an integral part of that budget. However, interviewees in this study indicated that the SIP's composition is highly dependent on political will and plans, which fluctuate according to political cycles. Significant strategic documents that set policy directions are the following:

- The Government's Programme¹ is the central document which outlines the political goals for a four-year period and is approved by Parliament. The current programme has identified "coherent" society, "coherent" education and culture, "coherent" economy and "coherent" state governing as its major pillar (in the words of the government).
- Action Plan of the Government's Programme² sets out the Government's commitments, lists concrete tasks and expected results. The most urgent and prioritised actions are listed as the Government's Priority Tasks.

1 Government of the Republic of Lithuania, Programme for 2016–2020, available at: www.e-tar.lt/portal/lt/legalAct/ed6be240c12511e6bcd2d69186780352

2 Government of the Republic of Lithuania, Action Plan for 2016–2020, available at: www.e-tar.lt/portal/lt/legalAct/2389544007bf11e79ba1ee3112ade9bc

Lithuania's Stability Programme³ is the successor of Lithuania's Convergence Programme with the European Union (EU). It is intended to induce fiscal discipline in line with EU directives.⁴ It is approved by the Government on an annual basis and is a cornerstone when drafting the Annual State Budget. The Programme covers state economic developments (current and prospective gross domestic product (GDP), tax revenue, general Government debt and other economic indicators) in Lithuania, as well as upcoming (medium-term) monetary and budgetary goals and some economic risk factors.⁵

- The State Advancement Strategy 2030⁶ sets long-term vision and goals in various areas of state development to be achieved by 2030 and plays an important role in efforts towards making the Government more open and accountable.⁷ Key targets regarding infrastructure are energy independence, the establishment of an internationally competitive research and science centre and developing Lithuania into a modern information technology hub.
- The National Advancement Strategy (2014–2020)⁸ consolidates the goals of the State Advancement Strategy 2030 and EU Strategy "Europe 2020", with the stated purpose of implementing the State Advancement Strategy 2030 and creating a modern and strong state, with a "smart" society, "smart" economy and "smart" governance.⁹ The Organisation for Economic Co-operation and Development (OECD) defines "smart" governance as that which is open, promotes access to information and is based on public consultation and participation in decision making.¹⁰ The priorities are broadly defined as outcomes (e. g. to increase cohesion among regions)¹¹ and not more detailed outputs. Infrastructure priorities are included within these outcomes; for example, it seeks to solve infrastructural inequalities between the smaller towns and largest cities of Lithuania,

3 Ministry of Finance, *Stabilumo programa*, 2018, available at:

finmin.lrv.lt/es-ir-tarptautinis-bendradarbiavimas/koordinavimas-su-es/stabilumo-programa

4 European Commission, Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies, Article 3, 1997, available at: eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A31997R1466

5 Ministry of Finance, Resolution No. 315 on the Stability Programme of Lithuania for 2017, available at: finmin.lrv.lt/en/international-cooperation/coordination-with-the-eu/stability-programme-of-lithuania

6 Parliament of the Republic of Lithuania, *Dėl Valstybės pažangos strategijos "Lietuvos pažangos strategija "Lietuva 2030" patvirtinimo*, available at: e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.425517

7 Organisation for Economic Co-operation and Development, *Lithuania: Fostering Open and Inclusive Policy Making*, OECD Public Governance Reviews, OECD Publishing, Paris, 2015, p.78, available at: read.oecd-ilibrary.org/governance/lithuania-fostering-open-and-inclusive-policy-making_9789264235762-en#page1

8 Parliament of the Republic of Lithuania, *Dėl 2014–2020 metų nacionalinės pažangos programos patvirtinimo*, available at: e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.439028

9 Ibid

10 See above, note 7, p. 66

11 Ibid., Goal 3.4

or infrastructure that is perceived necessary to attract more foreign investment.

- The State Investment Programme¹² funds infrastructure works in Lithuania and allocates funds for the creation, acquisition or improvement of tangible and intangible assets of state and municipal institutions, public agencies and enterprises. Public procurement entities prepare the draft investment projects and submit them to the supervisory bodies (state institutions and public agencies) according to management areas, which then select investment projects proposed for implementation in an appropriate year. The use of public investment funds is the responsibility of public procurement entities, which are the actual commissioners of the works.¹³ To strengthen the SIP, planning and delivery of public infrastructure through this mechanism changed in 2018. This represents an opportunity to strengthen infrastructure governance and strategic management of infrastructure investments.

In addition to the strategic documents setting out the contribution of infrastructure to various medium- and long-term goals, a legal framework is in place to regulate how infrastructure projects should be planned and implemented:

- The Law on Investment¹⁴ regulates the investment environment in Lithuania as well as investors' rights and investment protection measures for all kinds of investments. The Law defines the legal meaning of key concepts, such as strategic investors, public-private partnerships (PPP) and investment objects. The latter includes owned capital, securities, and long-term material and non-material assets.
- The Law on Public Procurement regulates the procedures that purchasing organisations in Lithuania must follow when implementing public procurement, including infrastructure projects.¹⁵ Since Lithuania's entry to the EU, the Law has been amended more than 25 times, which clearly demonstrates the constantly changing

12 Ministry of Finance, State Capital Investment, 2015, available at: finmin.lrv.lt/en/competence-areas/budget/state-capital-investment

13 Ibid

14 Parliament of the Republic of Lithuania, Law No. VIII-1312, 1999, available at: e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.84573/PWRRdheDrU

15 Government of the Republic of Lithuania, Law No. I-1491, 2017, available at: www.e-tar.lt/portal/lt/legalAct/TAR.C54AFFAA7622/KDNLaWRClr. The new Law on Public Procurement took effect on 1 July 2017. All state and municipal institutions are purchasing organisations, as well as any other public or private entity that in full or in part seeks for non-profit and non-industrial public interest and satisfies the following three criteria: 1) more than 50% of its budget is from state or municipal funds; 2) is controlled by the state or municipal institution or any public legal entity; 3) has an administration, board or any other oversight body in which more than half of the members are appointed by the state or municipal institution or any public legal entity. An association of any of the above-mentioned private or public procurement entities is also considered to be a purchasing organisation

rules to be followed in the procurement process. One key aspect is the delineation of different types of public procurements based on their value, which in turn determines the type of tendering the purchasing authority may choose (e.g. open call, disclosed negotiations, restricted competition). The type of tendering affects the levels of accountability and disclosure. Generally, tenders are announced, bids submitted and winners determined electronically via the Central Public Procurement Platform.¹⁶ A vast majority of tenders are concluded electronically; for example 99.3% of funds spent through tenders in 2016 were concluded via this platform.¹⁷ Consequently, it is possible to examine the largest tenders which have been announced online via the Central Public Procurement Portal.¹⁸

- The Law of Public Administration regulates public involvement and possible consultation processes. Public sector institutions are required to consult interest groups and affected communities before taking decisions of public interest.¹⁹ Although there are no separate consultations procedures specifically for infrastructure projects, all public sector institutions must consult with different stakeholders and, in cases prescribed by law, with society at large any time the decisions would be of public interest.²⁰ The Law allows institutions freedom to choose the method of consultation but requires them to announce the method, the participants and the results on their websites.
- The Law on State Budget's Composition and the Constitutional Law on Fiscal Agreement establish the checks and balances for expenses from the state budget.^{21, 22, 23} The procedures on how the state budget and municipal budgets are drafted, approved and implemented are covered in the Statute of Seimas (Seimas is the Lithuanian Parliament).²⁴

16 Public Procurement Office, Apie Centrinę viešųjų pirkimų sistemą — CVP IS, 2018, available at: pirkimai.eviesiejipirkimai.lt/ppo_startpage/apiecvpis.htm

17 Public Procurement Office, Informacija apie 2016 m. įvykdytus viešuosius pirkimus, 2016, available at: vpt.lrv.lt/informacija-apie-2016-m-ivykdytus-viesuosius-pirkimus

18 Central Public Procurement Portal, Notice search, available at: cvpp.eviesiejipirkimai.lt/

19 Government of the Republic of Lithuania, Law No. VIII-1234, 1999, available at: www.e-tar.lt/portal/en/legalAct/TAR.0BDDFFD850A66/NqpPNjjsfK

20 Ibid. Art. 7

21 Government of the Republic of Lithuania, Law No. I-430, 1990, available at: www.e-tar.lt/portal/en/legalAct/TAR.712BBBFA3D41

22 Government of the Republic of Lithuania, Law No. XII-1289, 2014, available at: www.e-tar.lt/portal/en/legalAct/34cc90406ef211e484b9c12b550436a3

23 Parliament of the Republic of Lithuania, Law No. XIII-177, 2016, available at: e-seimas.lrs.lt/portal/legalAct/lt/TAD/bc11d9f2cc0811e69185e773229ab2b2?jfwid=wny8rozq3

24 Government of the Republic of Lithuania, Law No. I-399, 1994, available at: www.e-tar.lt/portal/en/legalAct/TAR.123B53F30F70/fSpXphNjmf

- The Law on the Right to Obtain Information from State and Municipal Institutions and Agencies²⁵ ensures citizens' rights to access public information, defines what information might be public and presents the procedures necessary to obtain public information.

A number of national laws and EU directives enacted in national legislation regulate how EU funds on infrastructure, or any other field, should be spent and monitored. For instance, they make it possible to identify and estimate costs of the projects financed by the EU under the structural funds.²⁶ The EU directives of 2014^{27,28} that regulate public procurement have been transposed into national legislation, hence national laws can be applied directly in this regard.

Despite the wealth of strategic policy documents and laws, a clearly defined strategy for Lithuania's infrastructure priorities is absent. This contributes to the perceptions of interviewees that infrastructure decisions are made according to political rather than strategic priorities. There is a lack of coherency and, as the relationship between each document or law is indistinct, the overarching plan is absent. Individual institutions and officials are forced to make individual decisions regarding the identification, prioritisation and implementation of infrastructure projects, with varying degrees of success.

Management of infrastructure investments

Infrastructure investments in Lithuania are financed, planned and implemented through three different modalities:

- State Investment Programme: restricted amount of overall public investments in infrastructure channelled towards new projects and upgrading, equipping and maintaining existing infrastructure.
- EU structural funds financing: represents approximately three quarters of all public investments in Lithuania since 2004. Uses a parallel, negotiated, approach for selection, approval, preparation, monitoring and evaluation to satisfy EU rules for project financing.

25 Parliament of the Republic of Lithuania, Law No. VIII-1524, 2000, available at: e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.94745?positionInSearchResults=0&searchModelUUID=dd02f3b1-c007-4e56-9b9d-761470e7cbc4

26 Ministry of Finance, Rekomendacijos dėl projektų išlaidų atitikties Europos Sąjungos struktūrinių fondų reikalavimams, 2016, available at: [www.esinvesticijos.lt/docview/?id=4737&h=64b1b&t=2014-2020%20m.%20l%C5%A1laid%C5%B3%20rekomendac%20keitimas_po%20pos%C4%97d%20\(galut\)](http://www.esinvesticijos.lt/docview/?id=4737&h=64b1b&t=2014-2020%20m.%20l%C5%A1laid%C5%B3%20rekomendac%20keitimas_po%20pos%C4%97d%20(galut))

27 Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement, available at: eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0024

28 Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors, available at eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014L0025

Figure 1. The three stages of managing infrastructure investments in Lithuania



- PPP contracts (concessions and authority-pays contracts). The project “Promotion of Public-private partnership”, is implemented by the Central Project Management Agency (CPMA) and the Ministry of Finance and financed through EU structural funds. Up to 1 January 2017 a total of 53 PPP contracts had been concluded and €146.3 million was invested, out of which €0.93 million was invested in 2016.²⁹
- The focus of the case study as already pointed out is predominantly on the State Investment Programme (SIP) as it was identified as the weakest system. Strengthening the SIP including the component spent on upgrading, equipping and maintaining existing infrastructure is therefore key for increased sustainability and better value for money from public investments.

The way infrastructure investments are managed in line with legislation and regulation is central to openness, transparency, possibility of participation, accountability and ultimately successful outcomes. In Lithuania the process runs through three key stages: identification, implementation, and monitoring and evaluation (Figure 1).

The first stage includes project appraisal (including feasibility and cost-benefit analysis and other elements), review and project selection, while implementation comprises procurement, delivery of the project and oversight of works carried out.

Project identification stage

Project identification is decentralised to relevant sectors and generally done in the following steps. First, it is common practice for SIP project proposals that they are prepared internally by public procurement entities (including feasibility studies, environmental and social impact assessments) before they are submitted to the Ministry of Finance for approval.³⁰ These public procurement entities are either state institutions (e.g. Ministries, law enforcement entities and judicial institutions) or state offices (e.g. Office of the Seimas, Office of the President and Office of the Government). Project proposals must show how the project is in line with SIP goals, how it would influence the activities of the project owner and how it would compare to what the absence of funds would result in. Proposals must also explain how it will be possible to measure the success of the project and analyse the alternatives, that is whether there are other ways the same goals can be achieved without the proposed infrastructure project, by legal amendment and so on.

²⁹ Public Procurement Office, Statistiniai VPSP Duomenys, 2017, available at: pplietuva.lt/viesojo-ir-privataus-sektoriu-partneryste/statistiniai-vpsp-duomenys

³⁰ Government of the Republic of Lithuania, Decree No. 478, 2017, para. 13, available at: www.e-tar.lt/portal/en/legalAct/TAR.256966BC8FDF/nhlaOgwUd5

The Ministry of Finance then provides the combined draft SIP to the Government, where all Ministers and the Prime Minister vote on it. The approved draft is placed on the Parliament's agenda and is voted upon alongside the state budget.³¹ Interviewees emphasised that before submitting the budget to Parliament, the Ministry of Finance might discuss the proposed funding with public procurement entities and the Prime Minister. Public procurement entities will question proposed budget allocations if they do not correspond to their draft proposals.³²

From the inception of the 2018–2020 SIP, the threshold for projects to be included has been raised to €360,000 for infrastructure projects and €100,000 for information and communication technology projects.³³

Certain challenges occur in the process however, linked to the weakness of the strategic and policy framework to inform decision making. As noted above, the strategic programme documents presented in the section 'Strategic and legal framework' (or any other Government document) do not outline a clear and coherent strategy for the country's infrastructure priorities. In practice, this implies that each individual public entity identifies and prioritises its infrastructure investments through SIP independently. Ministries tend not to develop strategic priorities and usually end up financing different projects without measuring their contribution toward the broader outcome-based targets outlined in the strategic planning framework.

The decentralised structure of infrastructure planning means that each public entity must make its own long-term plans in its own field of competence.³⁴ However, this is not currently happening. Interviewees note that the infrastructure investment goals are highly reliant on political cycles and the availability of funding. One concluded that, "we lack strategic management skills... Ministers do not tend to prioritise within their field. It is difficult for a politician to say 'no' or that something is less important during his term." This illustrates an acute awareness of the swiftly changing political aims, which seems to be the principal driver of project selection.

31 Ibid., para. 23

32 The threshold for projects has been raised to €360,000 and €100,000 for projects intended to purchase or secure maintenance and or purchase of long-term material or immaterial assets and to purchase new ICT projects respectively. Central Public Procurement Portal, Notice search, para. 6, available at: cvpp.eviesiejipirkimai.lt

33 Government of the Republic of Lithuania, Decree No. 749, 2017, available at: www.e-tar.lt/portal/legalAct.html?documentId=7430ab80a1c711e7a5baf031c7d2d3c7

34 Public Procurement Office, Veiklos Ataskaita, 2016, p. 22, available at: vpt.lrv.lt/uploads/vpt/documents/files/VPT_2016_veiklos_ataskaita.pdf. According to this, 61.1% of purchasing organisations claimed to apply PPO recommendations in their procurement procedures. The usage of these recommendations has not been measured

Another interviewee said, “We do not have a strategic view and cannot picture how the SIP ensures that our goals are achieved.” Such a frank statement indicates the lack of a stronger strategic focus guiding infrastructure investments.

A key question for consideration is whether Lithuania has potentially come close to saturating its infrastructure needs. It is prudent to assess critically if the strategic planning, post-project evaluation of expected outputs and outcomes, and long-term fiscal planning are able to control the level of investment when funds are available. There are some indications that the current setup is not sufficiently strong.³⁵

According to one interviewee, “Perverse planning is one reason. The other is our financial resources. For instance, EU funds are either for acquiring property or for building new properties. Lithuania was willing to get the funds and therefore built a lot of infrastructure. [But now], how will we maintain it? Did we really need everything?” This suggests that the weakness of coherent planning and prioritisation could potentially result in long-term negative fiscal impacts from rising maintenance costs, particularly if selected projects are not systematically subject to rigorous appraisal processes, such as feasibility studies and cost–benefit analysis.

The lack of strategic planning or links to sectoral policies is illustrated by investment decisions within the social security sector. Between 2015 and 2016 more than €1.3 million was distributed to renovate children’s care homes, despite ongoing reforms to de-institutionalise the system during the period 2014–2020.³⁶

Project implementation stage

Public procurement entities set up and manage the procurement process for projects that have been included in the SIP. The procuring entities are responsible for making sure tendering processes comply with regulations whereas the Public Procurement Office (PPO) steps in only certain cases (i.e. if a report has been received about possible breaches).³⁷

35 Ministry of Environment, Investments in Lithuania, not available publicly but obtained by Transparency International Lithuania

36 National Audit Office, Valstybės Investicijų 2015 Metais Programos Valdymas, 2016, p. 22, available at: www.vkontrole.lt/failas.aspx?id=3615

37 The PPO has also developed a methodology that allows it to identify the procurements that are likely to breach the law, although the content of this methodology is not public (as this would defeat the purpose of it.)

There are two main contracting methods for infrastructure projects in Lithuania. These are as follows:

- Traditional public procurement under EU regulations (design-build) mostly used for SIP and EU structural funds projects. Public procurement contracts are published in the Central Public Procurement Portal.³⁸
- PPP contracts (concessions and authority-pays contracts)

As in the project identification stage, the process is negatively affected by some current challenges. One relates to the certainty of funding. Upon approval of the SIP, public procurement entities approve three years of funding for selected projects. The sums are however allocated annually and can be subject to change.³⁹ As one centrally placed interviewee noted, “Although the investments are confirmed for a three-year period, it does not mean you would get the full funding. The selected projects have to go through the selection process each year and be re-evaluated.”

Even when budgets are adhered to, public procurement entities are entitled to suspend the project implementation and prolong the planned timeframe of the work, all of which has become common practice. The additional cost of suspended projects is high, varying between two to four times of the original estimates. The reasons are various and include: additional needs later in the construction process, requirements to clarify documentation, increased unit costs and general inflation.⁴⁰

It should be emphasised that the reasons for increased costs such as unforeseen circumstances can be fully legitimate but according to the National Audit Office (NAO), the explanations offered by public procurement entities tend to be insufficient. Some of the most common reasons provided include: shortage of funding, making it impossible to allocate further resources to the project; failure to comply with procedural requirements, such as submitting requests for further funding; and the fact that the works were almost completed.⁴¹ The beauty of transparency is that it facilitates the explanation of legitimate reasons for cost and time overruns while it disincentives bad practices.

It is not clear how, and why, during the implementation process the public procurement entities decide to decrease funding for one project

38 Central Public Procurement Portal, Notice search, para. 6, available at: cvpp.eviesiejipirkimai.lt

39 Ministry of Finance, State Capital Investment, 2015, available at: finmin.lrv.lt/en/competence-areas/budget/state-capital-investment

40 National Audit Office, Valstybės Investicijų 2015 Metais Programos Valdymas, 2016, p. 25, available at: socmin.lrv.lt/uploads/socmin/documents/files/pdf/13442_stt-korupc-sadm-veiklos-srityse2017.pdf

41 Ibid

and allocate it to another.⁴² For example, in 2015 various institutions started 393 new investment projects and paused the development of 80 (in most cases renovation works). A total of 28 of the 80 projects that were put on hold had been ongoing for more than 10 years.⁴³ Interviewees were keen to emphasise that confirmation of their project proposals did not guarantee their implementation. As one noted, “We have been working on it for years and it is still difficult to predict the decisions to renew or suspend it. You never know when new priorities appear.”

Some of the challenges in the implementation phase seem to be linked to issues identified in the initiation phase, with too many projects being selected prior to old ones being completed.

Monitoring and evaluation of projects

Despite the formal process requirements, research has shown that the monitoring process remains varied and lacks systematic supervision.

The Ministries are required to monitor implemented projects, but this is not as rigorous as it would suggest. Sometimes this is due to information asymmetries or other differences in approach between a responsible Ministry and procuring entities it is overseeing, which can result in an undue focus on procedural and financial controls rather than on quality, for example.

One interviewee said, “The Ministry would not know the specifics of the construction we need for performance, so monitoring is more or less formal. They check budget lines but do not check the quality of the work.” Although budget lines as in this case are checked, the entity responsible for signing off a project and approving final payment would be the procuring entity.

The PPO monitors public tenders nationwide, including infrastructure projects. During the past few years, an average of nearly nine out of 10 tenders have been found to be in breach of the Law on Public Procurement, for example 83% in 2016⁴⁴ and 85% in 2015.⁴⁵ This implies a higher standard and more systematic nature of the monitoring process. However, the PPO only has a limited capacity to oversee implemented tenders.⁴⁶

42 Ministry of Social Security and Labour, Special Investigative Service, report on SIP, Nr. 4-01-4019, 30 May 2017

43 National Audit Office, Valstybės Investicijų 2015 Metais Programos Valdymas, 2016, available at: www.vkontrole.lt/failas.aspx?id=3615

44 Ibid., p. 31. As mentioned above, the new Law on Public Procurement took effect on 1 July 2017. It is too early to assess if the changes will lead to improvements

45 Public Procurement Office, Veiklos Ataskaita, 2016, p. 36, available at: vpt.lrv.lt/uploads/vpt/documents/files/VPT_metine_ataskaita_2015.pdf

46 For example, 3.5% in 2016, *ibid.*, p.5

The formal infrastructure project cycle, from project planning to implementation to monitoring, suffers from numerous weaknesses. The planning process is prone to retractions and postponements, perverse processes which potentially incentivise mismanagement, and a lack of oversight. Responses from key interviewees have clearly indicated the negative implications of these issues, which suggest there is substantial room for improvement. It is likely that increased transparency, participation and accountability will improve the value for money of infrastructure investments in Lithuania.

Strategic planning and budgeting reform

In addition to the ongoing reform of the State Investment Programme, a broader reform to strengthen strategic planning and budgeting in Lithuania is currently under preparation.⁴⁷ The stated intentions of the reform are to include reviewing and updating the processes of assessing and selecting investment projects. There is a commitment to thoroughly assess all investment projects by comparing possible alternatives, by applying life-cycle cost analysis, carrying out impact assessments and selecting the most appropriate source of funding. Project preparation and selection procedures are planned to be combined with all types of investments financed from various possible sources of funding (including EU support). The reform of strategic planning and budgeting specifically aims to increase transparency and accountability. In pursuit of this, the reform aims at higher involvement of public and decision-makers in budgeting processes, increasing the quality and openness of budget documentation and to issue Citizens Budget which will provide budget information in a simple manner. The reform of the Strategic Planning and Budgeting in Lithuania is projected to be implemented by the beginning of 2021. These changes are highly commendable, but their success will rely on identification of tools and mechanisms for effective implementation and progress should be monitored closely.

Mapping key stakeholders

Most of the stakeholders introduced in this section are public sector institutions that are responsible either for coordinating, implementing or monitoring the SIP. The involvement of the broader public in the decision-making process is marginal and little is known about their actual role during implementation of infrastructure projects.

Public sector institutions

The European Commission and the Lithuanian Ministry of Finance play key roles in determining the size of the resource envelope available for infrastructure investments. The Ministry in addition informs public

⁴⁷ Central Project Management Agency, The reform of the Strategic Planning and Budgeting, 2018, available at: pplietuva.lt/en/the-reform-of-the-strategic-planning-and-budgeting/the-reform-of-the-strategic-planning-and-budgeting-1

procurement entities about the preliminary limits assigned to them within the SIP.⁴⁸ After receiving the lists of project proposals, the Ministry drafts the SIP and submits it to the Cabinet, which includes all the Ministers and is chaired by the Prime Minister.⁴⁹ The Government considers the SIP draft and, after any required amendments, submits it to Parliament.⁵⁰

At sector level, a range of entities are responsible for setting the selection criteria for project proposals, and for employing the designated funds to deliver the selected projects on time and on budget.^{51, 52} These include all Ministries; judicial, law enforcement and monitoring institutions; offices of Parliament, Government and the President; and other institutions that manage their respective budget appropriations. The latter include the Central Project Management Agency (overseen by the Ministry of Finance), the Transport Investment Directorate (Ministry of Transport and Communication), the Environmental Project Management Agency (Ministry of Environment) and the Agency for Science, Innovation and Technology (Ministry of Economy and Ministry of Education and Science).

Parliament is a central actor as it scrutinises and approves the SIP in conjunction with the state budget. The SIP is subject to review in all specialised committees as they are entitled to consider it according to their fields of competence.⁵³ Nevertheless, a few committees have more crucial roles. The Committee on Budget and Finance compiles proposals from other committees on the draft budget and monitors the ongoing implementation of the budget after it is approved.⁵⁴ The Audit Committee evaluates the NAO reports and provides its suggestions to the Committee on Budget and Finance about the upcoming year's budget.⁵⁵ Afterwards Parliament votes on it during a plenary session.⁵⁶

After approval, the project implementation cycle can be initiated, public procurement entities can draw on appropriations and the Ministry of Finance publishes the data on allocated SIP funds on its website.⁵⁷

48 See above, note 24, para. 15

49 Ibid., para. 251 and 253

50 Ibid., para. 23

51 Ibid., para. 30 and 31

52 See above, note 17, para. 15 and 18

53 See above, note 7, Art. 49 para. 8

54 Ibid., Art. 59

55 Ibid., Art 591 para. 1 and 13

56 See above, note 24, Art. 172–18

57 See above, note 17, para. 27

Monitoring entities

Each public entity must assure internal monitoring and report biannually and annually to the Ministry of Finance whether the projects are implemented within the set budget limits and without any breaches of contract.⁵⁸ A few institutions are very important in this context.

The PPO acts as a safeguard, though in recent years it has devoted more and more of its resources to proactive consultation of purchasing organisations. The Competition Council analyses the market in order to make sure that no cartel arises in any of the purchases from the public sector. The NAO monitors financial conformity with national legislation and provides reports on long-term successes and failures of the use of public finances.

As a rule, committees within Parliament evaluate the use of the state budget, have it audited by the NAO from a political perspective, and discuss the effectiveness of funds on a macro level, without implementing additional or supplementary audits.

Civil society

Although consultations with civil society and other interest groups are provided for legally,⁵⁹ the tendency is for no significant and long-standing involvement.⁶⁰ This is largely due to the fluid definition of public consultations in the Law of Public Administration⁶¹ and a lack of extensive involvement of local communities in practice. The Office of the Government has identified this as a key shortcoming and recently announced a tender to create a methodology to foster greater inclusion of public consultations.⁶²

As of March 2018, there were 2098 civil society organisations registered and it is difficult to estimate what number of these are active.⁶³ They include a plethora of foundations, professional and business associations, and local community organisations. Most organisations are involved in cultural activities that involve policy dialogue with the Government. It is hard to pinpoint exclusively infrastructure-oriented civil society

58 Government of the Republic of Lithuania, Decree No. 20-799, 2016, para. 5, 12 and 19, available at: www.e-tar.lt/portal/en/legalAct/TAR.1F222CCAB5C9/NizXanvCFG

59 See above, note 19

60 Although a few notable instances have taken place during recent years, see Section 5

61 See above, note 19

62 Government of the Republic of Lithuania, The Third Action, 2012, available at: epilietis.lrv.lt/lt/dalyvauk-1/atvira-vyriausybe-1/atviros-vyriausybes-partneryste/treciasis-veiksmu-planas. Public procurement for the model of public consultations is accessible at: mw.eviesiejipirkimai.lt/vpm/vpt_pub_n7_vppa_print_forma_1_3.asp?DOK_ID=2003345953. No details about the content of the future public consultation methods are available yet, although it is announced that the tender amounts to €460 000 and the contractor Ltd. Civitta must deliver before the end of June 2019

63 Transparency International Lithuania, NGO Atlas, 2018, available at: www.nvoatlasas.lt

organisations, although some are more vocal in the public domain on infrastructure projects as they relate to their respective areas of interest.

Moreover, a few local community organisations, particularly in and around the capital Vilnius (such as “the community of Užupio”, “the Community of ANTAKALNIEČIAI”, “the community of Šnipiškės”), as well as the Lithuanian Cyclists’ Community, have been vocal about specific construction projects.⁶⁴

The Lithuanian Free Market Institute, a think tank, continually analyses the economic capabilities of both state and municipal bodies. The largest infrastructural projects come under its scope of operation.⁶⁵

Transparency International has been active in Lithuania since 2000. The local chapter focuses on engaging citizens and partnerships in anti-corruption initiatives and developing transparency standards in both the public and private sectors. While not exclusively related to infrastructure, its promotion of openness, transparency and integrity are vital cross-cutting issues that are central to improved governance of infrastructure planning and delivery.

Private sector

Private construction companies are key to the implementation stage of SIP projects and an analysis of construction tenders suggests an increasingly consolidated sector. During recent years (2014–2016) the construction market has become dominated by the biggest players. For example, the proportion of the total values of awarded contracts increased from 47% to 70% for the 20 largest contractors, and from 33% to 59% for the ten largest (see Table 1).⁶⁶

However, fewer bigger suppliers is not necessarily an ideal environment for public procurement as it can squeeze out small-to-medium-sized enterprises and increase tender prices.

As in most other countries, there is an overlap in Lithuania between civic organisations and private sector associations in the way they are legally constituted. Principally, the institution established must be non-profit. In pursuing their legally established mandates, a number of significant players actively use lobbying as an instrument for influencing public policies, such as the Lithuanian Confederation of Industrialists,⁶⁷

64 Transparency International Lithuania, NGO Atlas, 2018, available at: www.nvoatlasas.lt

65 Lithuanian Free Market Institute website, 2018, available at: en.llri.lt

66 Public Procurement Office, Statyba Įžvalgos / 2015–2016, p. 3, available at vpt.lrv.lt/uploads/vpt/documents/files/Statybos_sektorius_2015-2016_m.pdf

67 Lithuanian Confederation of Industrialists website, 2018, available at: www.lpk.lt/en

Table 1. Companies with largest construction contracts in 2016

Company	Position by awarded contract value			Contracts awarded value in € million and number					
	2014	2015	2016	2014		2015		2016	
				€	No.	€	No.	€	No.
AB Kauno tiltai	3	1	1	36.6	27	130.4	32	265.0	38
Rafako S.A.	—	—	2	—	—	—	—	181.1	1
UAB Kauno keliai	—	2	3	—	—	81.9	14	158.0	10
AB Panevėžio keliai	—	5	4	—	—	41.6	31	30.2	33
UAB Tetas	2	11	5	39.6	37	17.6	23	49.1	35
UAB Energetikos paslaugų ir rangos organizacija	—	—	6	—	—	—	—	36.7	40
UAB Šiaulių plentas	4	10	7	33.6	17	18.0	12	30.7	16
UAB Vytrita	10	4	8	19.0	19	49.0	19	26.9	20
AB Panevėžio statybos trestas	6	8	9	26.4	26	21.4	30	26.5	24
UAB A.Žilinskio ir ko	5	3	13	20.4	21	59.5	26	17.9	19
UAB Elektros tinklo paslaugos	1	6	—	54.0	37	33.2	31	—	—
UAB Alkesta	7	14	—	24.0	19	12.9	17	—	—
UAB Irdaiva	9	7	—	22.5	32	31.3	27	—	—

the Lithuanian Business Confederation,⁶⁸ the Lithuanian National Road Carriers Association (Linava),⁶⁹ the Lithuanian National Association of Forwarders and Logistics (Lineka)⁷⁰ and Infobalt.⁷¹ In addition there are a number of professional associations such as the Investor's Forum,⁷² the Architects' Chamber of Lithuania⁷³ and the Lithuanian Association of Civil Engineers.⁷⁴

Lithuania amended its Law on Lobbying Activities on 1 September 2018. This provides a definition of lobbying that (implicitly) covers influence-making of all forms. It establishes an obligation for lobbyists to declare their attempts to influence in seven days (these declarations are available online at www.lobistai.lt).

However, the amended law exempts non-government organisations (NGO) from its ambit. This is because Lithuania's legislation does not provide a separate legal entity for NGOs and consequently the line between public-interest organisations and united groups of private companies is difficult to establish. NGOs in Lithuania may take one of three types of legal entity: public establishment, association and charity fund.

INNOVATIVE MECHANISMS AND GOOD PRACTICES

The Government has emphasised the importance of transparency and openness and committed to increased participation in decision making within the public sector. But there is still a significant gap when it comes to data on infrastructure available in a comprehensive, systematic and generic manner. Lithuania has committed to launching an open data portal, though it is still at the initial draft stage and it is not yet clear exactly what data it would contain. Despite this, a few good examples of innovative mechanisms and good practice have emerged.

The Ministry of Finance began to publish the annual financial flows to sectors such as healthcare, education and infrastructure in 2016. In a comprehensible format, Lithuanian citizens can now access visualised and systematic information about state budget expenditure, including generic figures on infrastructure. For instance, graphics show that

68 Lithuanian Business Confederation website, 2018, available at: www.lvk.lt/en

69 Lithuanian National Road Carriers' Association website, 2018, available at: www.linava.lt/en/

70 Lithuanian National Association of Forwarders and Logistics website, 2018, available at: www.lineka.lt/en/about-us

71 Infobalt website, 2018, available at: www.infobalt.lt/en/about

72 Investors' Forum website, 2018, available at: investorsforum.lt

73 Architects' Chamber of Lithuania website, 2018, available at: www.architekturumai.lt/en

74 Lithuanian Association of Civil Engineers website, 2018, available at: www.lsis.lt/en

Lithuania planned to spend €474.6 million in 2017 on transport and communications, albeit combining recurrent and capital expenditure (i.e. operational and investment expenditure).⁷⁵

Applying the same classification, it was announced that €242 million was allocated to roads of national importance, €133 million to local roads and €5 million to railways. Although this is a step in the right direction, there is room for improvement, for example by: adding historic trends, disaggregating recurrent and capital expenditure, and including specific projects, locations and the institutions responsible. Moreover, there is no data in computer-readable open data files.

Although Lithuania has been a member of the Open Government Partnership since 2011, it has not yet focused specifically on transparency and participation in the planning and delivery of public infrastructure. The closest step in that direction has been a commitment to publish online information about the revenues and spending of national and municipal institutions, but this has not yet been finalised and it is not yet clear what sets of financial data would be made available.⁷⁶

When it comes to improving the efficiency of public spending, there are a few shining examples of good practice and development. A recent intervention by the PPO helped reduce the costs of the Lazdynai swimming pool by more than €6 million. A centrally placed source in the PPO outlined the steps they had taken: “We evaluated that the foreseen budget of €28 million exceeded the market prices and should not have been higher than €23 million. The procuring agency took our recommendations into account and the contract was signed for €21.7 million. Subsequently, we very much hope there will not be any abuse and the final cost will remain the same.”

The PPO’s involvement also led to a greater number of companies providing road-marking services at lower costs. The number of companies contracted by the Lithuanian Road Agency doubled from two to four in 2016. ■

75 Ministry of Finance, 2017 Išlaidos Transportui ir Ryšiams, 2017, available at: finmin.lrv.lt/uploads/finmin/documents/files/susisiekimo_sritis.pdf

76 Open Government Partnership, Midterm Self-Assessment Report on the Action Plan for Lithuanian Participation in the International Initiative “Open Government Partnership”, 2017, available at: www.opengovpartnership.org/sites/default/files/Lithuania_Mid-term_Self-Assessment-Report_2016-2018_EN.pdf

4. MEASURE OF TRANSPARENCY

Lithuania has been a member of the Open Government Partnership since 2011 and a member of the Organisation for Economic Co-operation and Development (OECD) since 2018, both factors having worked as catalysts for policy changes in the country.

All public-sector institutions provide quarterly, biannual and annual budget expenditure reports online following the line-item-based budgeting report. However this means that the budget inputs are based with figures that aggregate both recurrent and capital expenditure, making it difficult to single out individual projects. Moreover, the budget expenditure reports do not explain criteria applied for projects included in the State Investment Programme (SIP) or the extent to which they were implemented on budget or deviated from the planned timeline (including projects that have been suspended).

Cost–benefit analyses, progress evaluations and impact assessments are also not publicly available, though in certain cases they are developed for internal purposes. The regulatory framework for the state budget and the SIP in Lithuania does not oblige any institutions to disclose any of this information to the public.

To access information, it is necessary to turn to each individual public entity procuring infrastructure. To measure the typical level of infrastructure transparency, a sample of infrastructure projects carried out by Lithuanian Railways and the Lithuanian Road Administration, both being among the five biggest procuring entities for SIP projects in 2016, was selected. Through desk-based research, data was gathered from websites and public portals to map the level of disclosure against the internationally recognised Infrastructure Data Standard (IDS) promoted by CoST – the Infrastructure Transparency Initiative (CoST).

The analysis also included an assessment of which of these data points are legally required for internal purposes and which are legally required to be disclosed to the public. Table 2 summarises this analysis, listing the four separate categories:

- whether there is a legal obligation to report to a respective Ministry or oversight body

- whether there is a legal obligation for the project owner to make information public
- whether information is made public in practice
- whether information would be available through activating freedom of information (FOI) legislation

The first two categories were assessed through procedural laws and decrees, which are discussed throughout this study. The third category was assessed through results gathered from the websites of the public procurement entities owning the projects, the Ministry of Finance and the Central Public Procurement Portal. The final category was assessed through questionnaires to procuring entities (not through actual activation of FOI legislation).

The analysis shows that the level of infrastructure transparency in Lithuania is reasonable but with significant room for improvement by international standards.

Table 2. Data disclosure in Lithuania mapped onto the CoST IDS:
Proactive Disclosure

CoST IDS – proactive disclosure	Legal obligation to report to Ministry or oversight body requirement to disclose	Data legally required to be proactively disclosed	Data proactively disclosed in practice	Accessible through FOI	Location of data
PROJECT PHASE					
Project identification					
Project reference number	Yes	No	Yes	Disclosed	Central Public Procurement Portal
Project owner	Yes	No	Yes	Disclosed	Procuring entity website
Sector, subsector	No	No	Yes	Disclosed	
Project name	Yes	No	Yes	Disclosed	
Project Location	Yes	No	Yes	Disclosed	
Purpose	Yes	No	Yes	Disclosed	
Project description	Yes	No	Yes	Disclosed	
Project preparation					
Project scope (main output)	Yes	No	Yes	Disclosed	Procuring entity website
Environmental impact	Yes	Differs ¹	No	Differs ²	Not disclosed
Land and settlement impact	Yes	Differs ³	No	Differs	Not disclosed

1 Depends on scope of project

2 For all answers related to accessibility through FOI a “differs” answer reflects that procuring entities administer such requests differently

3 Depends on scope of project

CoST IDS – proactive disclosure	Legal obligation to report to Ministry or oversight body requirement to disclose	Data legally required to be proactively disclosed	Data proactively disclosed in practice	Accessible through FOI	Location of data
Contact details	Yes	No	Yes	Disclosed	Central Public Procurement Portal
Funding sources	Yes	No	Yes	Disclosed	Procuring entity website
Project Budget	Yes	No	Yes	Disclosed	
Project budget approval date	Yes	No	Yes	Differs	
Project completion					
Project status (current)	Yes ⁴	No	No	Yes	Not disclosed
Completion cost (projected)	Yes	No	Yes	Disclosed	Procuring entity website
Completion date (projected)	Yes	No	Yes	Disclosed	
Completion scope (projected)	Yes	No	No	Differs	Not disclosed
Reasons for project changes	Yes	No	No	Differs	
Reference to audit and evaluation reports	Yes ⁵	No	No	No	

4 Annually and biannually

5 Although the extent and level of detail of the audit and evaluation reports requested is unclear

CoST IDS – proactive disclosure	Legal obligation to report to Ministry or oversight body requirement to disclose	Data legally required to be proactively disclosed	Data proactively disclosed in practice	Accessible through FOI	Location of data
CONTRACT PHASE					
Contract procurement					
Procuring entity	Yes	Yes	Yes	Disclosed	Central Public Procurement Portal
Procuring entity contact details	Yes	Yes	Yes	Disclosed	
Procurement process	Yes	Yes	Yes	Disclosed	
Contract type	Yes	Yes	Yes	Disclosed	
Contract status (current)	Yes	No	Yes	Disclosed	
Number of firms tendering	No ⁶	Yes	Yes	Disclosed	
Cost estimate ⁷	No	No	No	Differs	
Contract administration entity	Yes	Yes	Yes	Disclosed	Central Public Procurement Portal
Contract title	Yes	Yes	Yes	Disclosed	
Contract firm(s)	Yes	Yes	Yes	Disclosed	
Contract price	Yes	Yes	Yes	Disclosed	
Contract scope of work	Yes	Yes	No ⁸	Differs	
Contract start date	Yes	Yes	Yes	Disclosed	
Contract duration	Yes	Yes	Yes	Disclosed	

6 The procurement stage is mostly covered by the Law on Public Procurement, which does not oblige the purchasing organisations to make public the number of firms tendering during the procurement itself, but this information is available online via procurement reports which have to be submitted once the procurement is completed

7 SIP projects do not entail estimates, the project budget is rather a fixed financial cap. Within the procurement stage the project estimate can be calculated referring to the contract price

8 This data is not consistently available despite being required to be disclosed by law

CoST IDS – proactive disclosure	Legal obligation to report to Ministry or oversight body requirement to disclose	Data legally required to be proactively disclosed	Data proactively disclosed in practice	Accessible through FOI	Location of data
Contract implementation					
Variation to contract price	Yes	No	No	Differs	
Escalation of contract price	Yes	No	No	Differs	
Variation to contract duration	Yes	No	No	Differs	
Variation to contract scope	Yes	No	No	Differs	Not disclosed
Reasons for price changes	Yes	No	No	Differs	
Reasons for scope and duration changes	Yes	No	No	Differs	
Percentage of total IDS data points	92.5%	35%	65%		

PROACTIVE DISCLOSURE

The analysis shows that 35% of data points are required to be publicly disclosed by law, which is a relatively low figure. The information that must be disclosed according to law is confined to the tendering process and does not include information on the infrastructure project cycle, which is often of more interest to the broader public.

The level of information proactively disclosed (65%) is much higher than what is legally required. This in large part is due to the high standards for information disclosure within public procurement. The overall pattern of disclosure is similar to what is seen internationally, with information concerning project changes and variations to timeline, budget and scope being the type of information that is often not disclosed voluntarily.

While procuring entities are obliged to account for the funds they spend, this does not happen in a universally applied reporting format. Proactively disclosed data, while in the public domain, is difficult and time-consuming to identify. It is entirely delinked from the SIP, which represents the legal foundation of most of the spending as well as the Government's strategic objectives with infrastructure investments. Procuring entities do not refer to the projects as SIP projects or link tenders to SIP projects. This makes cross-referencing awkward as it is necessary to sort through the full list of projects in the SIP to match each respective tender.

In practice, two-thirds of the data required by the CoST IDS is disclosed to the public despite not being a legal requirement. It would seem rational to address the gap between the outdated legal framework and actual practice through legislative revision. A dedicated reform could bring Lithuania even closer to international best practice, making data already disclosed a legal requirement along with currently unavailable data concerning escalations and variations in project duration and price. Disclosing this type of information could strengthen trust in the Government and increase the sense of accountability in the use of public resources. This also sits well with the Government's declared commitment to take openness and transparency to the next level.

DATA LEGALLY REQUIRED FOR REPORTING TO OVERSIGHT BODIES

The analysis showed that data the procuring entities are required to produce for internal reporting on SIP projects for oversight within the Government is very high (92.5%). The most interesting aspect of this finding is it shows the data is considered relevant and exists.

Administratively it is much easier to increase disclosure when the data already exists for internal use than to prepare disclosure of data that

is not yet produced or perhaps is seen as having limited relevance. Essentially it becomes a political decision whether to disclose the data or not.

DATA AVAILABLE UPON REQUEST

Public data and information that is not proactively disclosed to the public could in most cases be obtained through use of FOI requests.

What is possible to disclose and what is not is interpreted differently by different procuring entities. This suggests that rules and regulations for transparency are not clear and evenly applied, which is a cause for concern. ■

5. MEASURE OF STAKEHOLDER PARTICIPATION

International experience has demonstrated that a lack of forums for politicians, experts, citizens and interest groups to engage in structured, informed discussions about policy options for infrastructure projects is bad for any government. It harms the quality of the decision-making processes, increases uncertainties and risks, reduces the interest of potential investors and fuels opposition from groups affected by specific projects.¹

The Organisation for Economic Co-operation and Development (OECD) assigns great importance to citizens' engagement in policy-making in general and infrastructure in particular but notes that Lithuania has a quite limited tradition of citizens' participation in public policy making. Vital for the purposes of this report, OECD finds that, "Considering the Government's ambition to foster engagement with citizens and business, it needs to implement specific policy initiatives to bend historical trends in citizen engagement."²

Such initiatives would greatly help overcome the fact that Lithuanian citizens are usually not involved in the decision-making process at any stage of infrastructure projects, and public institutions admit they do not know how to engage effectively with local residents. In addition to specific policy initiatives, a set of proven tools and standards would also help shift historic trends.

CONSULTATION PRACTICE

Table 3 is a breakdown of the types of engagement of public and local stakeholders, using the same random selection of projects from the five highest SIP-spending public procurement entities in 2016 (see section 'Measure of transparency'). It applies the following OECD definitions of 2001 for levels of citizens' engagement in policy making:

1 CoST – the Infrastructure Transparency Initiative website, 2018, available at infrastructuretransparency.org

2 Organisation for Economic Co-operation and Development, Lithuania: Fostering Open and Inclusive Policy Making, OECD Public Governance Reviews, OECD Publishing, Paris, 2015, p.66, available at: oecd.org/publications/lithuania-fostering-open-and-inclusive-policy-making-9789264235762-en.htm

- Information sharing: a one-way relationship in which the Government produces and delivers information to be used by citizens. It covers both “passive” and “active” measures by the Government to disseminate information reaching them.
- Consultation: a two-way relationship in which citizens provide feedback to the Government. It is based on the prior definition by the Government of the issues on which citizens’ views are being sought and require provision of information. The Government defines the issues for consultation, sets the questions and manages the process, while citizens are invited to contribute their views and opinions.
- Active participation: a relationship based on a partnership with the Government, in which citizens actively engage in defining the process and content of policy making. It acknowledges equal standing for citizens in setting the agenda, proposing policy options and shaping the policy dialogue, although responsibility for the final decision or policy formulation rests with the Government.

The information in Table 3 was gathered through freedom of information requests from the respective public procurement entities.

The information gathered from the sample projects clearly illustrates that citizen engagement in the infrastructure project cycle is nascent.³ Three out of five projects have been subject to information sharing only while two out of five were subject to consultation. Frequent tools used by the Government in these processes include the announcement of project descriptions online and in local and national media outlets.

The sample projects testify to the absence of a systematic approach to engage targeted communities or specific interest groups (whether non-government organisations, associations, business groups or similar) in infrastructure planning and delivery. It also suggests that the project implementation plan does not include specified indicators for success, or measures for minimal necessary involvement, with regard to meaningful engagement.

It is worth analysing the tangible two-way consultations which took place in two of the sample projects in more detail: installation of missing European rail links and construction of a major gas pipeline from Klaipėda to Kuršėnai.

The first project had a much higher level of public engagement than the others. A total of 21 people provided comments for the environmental

³ The list of sample projects analysed here is not representative for all infrastructure projects in Lithuania as it includes only large, high-priority projects, hence the level of involvement is likely to be higher in comparison with other projects

Table 3. Types of engagement on selected infrastructure projects procured by the five largest recipients of infrastructure funding in Lithuania in 2016

Level of engagement: Information sharing		
Electrification of corridor IX, stage I, Kena—Naujoji Vilnia		
Public entity	Budget in 2016 SIP	Implementation period
Lithuanian Railways	€19.2m	2014–2018
Reconstruction and maintenance of roads of local significance, 2016–2018		
Public entity	Budget in 2016 SIP	Implementation period
Lithuanian Road Administration under the Ministry of Transport and Communications	€85.0m	2016–2018
Development of Trans European Network road E67 (via Baltica), Kaunas–Marijampolė		
Public entity	Budget in 2016 SIP	Implementation period
Lithuanian Road Administration under the Ministry of Transport and Communications	€32.7m	2016
Construction of roads, bridges and viaducts, 2016–2018		
Public entity	Budget in 2016 SIP	Implementation period
Lithuanian Road Administration under the Ministry of Transport and Communications	€104.7m	2016–2018
Level of engagement: Consultation		
Installation of missing links of European rail track from the Polish–Lithuanian border to Kaunas and preparation works for development of European rail track from Kaunas to Lithuanian–Latvian border		
Public entity	Budget in 2016 SIP	Implementation period
Lithuanian Railways	€2.2m	2016–2020
Construction of highway gas pipeline, Klaipėda–Kuršėnai		
Public entity	Budget in 2016 SIP	Implementation period
Ministry of Energy	€16.5m	2016

impact study and 182 comments were received for the project plan, to which answers were provided by email or mail. Over the course of the project, 16 open consultations were organised where the received inquiries and suggestions were discussed among representatives of Lithuanian Railways, parties that submitted ideas and other interested citizens.

The second project had a less intense public engagement, but nevertheless received six suggestions for the environmental impact study and 62 suggestions for the plan. A total of 12 open consultations were organised.

Given the Lithuanian Government has stated the significance and priority of public stakeholder engagement, the Ministry of Finance has taken the initiative and organised five events for best-practice exchange across five different cities in 2017. They aimed to raise awareness about European Union (EU) funded projects by encouraging residents to participate in consultations. In total, 225 people participated, a substantial number, although it is unclear what kind of target groups were represented.⁴

Public sector institutions should consult interest groups and affected communities before taking decisions of public interest, however this is not standard practice in Lithuania.⁵ Most interviewees agreed that any public involvement is perfunctory, with the broader sentiment captured in the following quote: “People are confronted with decisions which have already been made and the general feeling is that they cannot change anything, because the documents have already been prepared, the funds have been received and so on.”

A current Government-led national survey also shows that only 34% of municipal council members and 28% of local community leaders think people can influence decision making.⁶ External surveys have corroborated this data. Only 5% of Lithuanian citizens have participated in public consultations, while 49% claim they lack information about such possibilities, according to a survey by Transparency International Lithuania.⁷

Interviewees also note that municipalities should provide information in an easily understandable manner rather than use bureaucratic

4 Ministry of Finance, overview sent to Transparency International Lithuania on 16 January 2018

5 National Audit Office, Valstybės Investicijų 2015 Metais Programos Valdymas, 2016, p. 25, available at: www.vkontrole.lt/failas.aspx?id=3615

6 Ministry of Interior, Participation of citizens when making decision on local level, representative survey, 2016, unpublished

7 Transparency International Lithuania, Gyventojų Apklausa Apie Savivaldybių Atvirumą, 2014, available at: www.transparency.lt/wp-content/uploads/2015/10/gyventoju_apklausa_apie_savivaldybiu_atviruma.pdf

language.⁸ For instance, the Department of Cultural Heritage, as part of the Ministry of Culture, sent out an invitation for a forum on the management plan for Vilnius old town just before Christmas 2017 – with one on 19 December 19 and another on 22 December. A person closely associated with this process noted, “I think it is an example that people’s engagement is perceived as an obstacle for infrastructure works.”

Public sector representatives doubt the added value of public involvement. As one interviewee put it, “we have tried to engage with people and meet the neighbourhood community, but they did not seem to be interested in the project. Maybe specific knowledge is required to participate in those kind of discussions?” This quote suggests that the need for increased transparency and openness to nurture public engagement is appreciated and provides a strong case for more active disclosure of information about infrastructure projects.

Timing also matters. The general feeling emanating from interviewees was that public participation opportunities in infrastructure planning should be formalised and citizens engaged in a timely manner. As one interviewee said, “People should know about infrastructure plans from the very beginning so that agencies can have networks of supporters in local communities before they even begin their work. It is very much about communication.”

While a culture of engagement with infrastructure projects is somewhat embryonic, there appears to be a growing appetite for it, expressed in the challenges citizens have raised to certain projects. In 2015, for example, a local community in the Užupis district raised concerns about ongoing construction in the old town and asked if new buildings exceeded height restrictions or if they would have a negative impact on the United Nations Educational, Scientific and Cultural Organization protected area.⁹ These concerns were taken up and highlighted by the media, following which the construction company MG Valda explained its decisions in more detail.¹⁰

The Government seems to demonstrate the willingness for a more substantial push as it seeks to establish a methodology for public consultations.¹¹ With the expansion of e-services, novel ways of

8 Ibid

9 Verslo Žinios, Užupio bendruomenė skundžiasi, institucijos problemų neranda, 24 November 2015, available at: vz.lt/sektoariai/nekilnojamasis-turtas-statyba/2015/11/24/bendruomene-skundziasiinstitucijos-problemu-nemato#ixzz513TSClRt%20uzupiokrantines.lt/aparimas/statybos-uzupyje-vietosbendruomene-supykde-ir-su-mg-valda

10 15min.lt, Statybos Užupyje vietos bendruomenė supykde ir su „MG Valda“, 15 July 2015, available at: www.15min.lt/naujiena/aktualu/lietuva/statybos-uzupyje-vietos-bendruomene-supykde-ir-su-mg-valda-56-515968

11 Public Procurement Office, Viešojo Pirkimo Procedūrų Ataskaita, No. At-1, 2014, available at: mw.evieziejpirkimai.lt/vpm/vpt_pub_n7_vppa_print_forma_1_3.asp?DOK_ID=2003345953

involving the public may arise and sporadic examples of this are already taking place.¹²

There is potential for building further on this, especially if it is combined with more active dissemination of information and proven tools and standards are applied systematically. This applies not only to individual projects included in the SIP but also to the programme in its entirety. It also applies to lower levels of Government for projects that do not pass the monetary threshold for being included in the SIP but which have equal importance for stakeholders in local communities, and which will benefit from their inputs. ■

12 Government of the Republic of Lithuania, Išrinkime Lukiškių aikštės memorialą!, 2017, available at: epilietis.lrv.lt/lt/naujienos/isrinkime-lukiskiu-aikstes-memoriala

6. MEASURE OF ACCOUNTABILITY

Increasing accountability in public infrastructure investment is central to reducing potential waste and mismanagement of public resources and achieving more value for money from investments. As this report has shown, the financial costs of projects increase dramatically when they are postponed or suspended after initiation.

It is a worldwide problem, affecting even the most well-organised administrations, that infrastructure projects often exceed both projected time and budget and sometimes without intended outcomes being met or even measured.^{1,2} Better oversight and control is one of the measures needed to address this problem alongside increased transparency and stakeholder engagement.

At a broad level, the Government state accounts in Lithuania face some challenges in gathering objective information on the financial state of the public sector as a whole.³ The National Audit Office (NAO) claims that until this is done, well-grounded projections on the use of public sector assets cannot be made.⁴

PROJECT IDENTIFICATION STAGE

The NAO has questioned the drafting process of the State Investment Programme (SIP) in almost half the public procurement entities involved, as they either did not apply any selection criteria or were in breach of their own procedural selection rules.^{5,6} Hence it is not clear how public procurement entities select infrastructure projects.

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- 1 Flyvbjerg B, "What You Should Know About Megaprojects and Why: An Overview", Project Management Journal, April/May 2014, available at www.researchgate.net/profile/Bent_Flyvbjerg/publication/261411676_What_You_Should_Know_About_Megaprojects_and_Why_An_Overview/links/59fbaad60f7e9b9968bb03ff/What-You-Should-Know-About-Megaprojects-and-Why-An-Overview.pdf
 - 2 Hart T, Krause P and Miller M, Bricks and dollars Improving public investment in Infrastructure, Overseas Development Institute, 2015, available at: www.odi.org/sites/odi.org.uk/files/odi-assets/publications/opinion-files/10117.pdf
 - 3 National Audit Office, 2016 Metų Nacionalinio Finansinių Ataskaitų Rinkinio ir Valstybės Skolos Vertinimas, 2017, p. 4, available at: www.vkontrole.lt/failas.aspx?id=3741
 - 4 Ibid., page 4
 - 5 National Audit Office, Valstybės investicijų 2015 Metais Programos Valdymas, 2016, pp. 6–7, available at: www.vkontrole.lt/failas.aspx?id=3615
 - 6 After the audit in 2016 all ministries approved their internal project selection criteria

under utilisation, accelerated deterioration due to poor maintenance, and, occasionally, in expensive ‘white elephants’ and bridges to nowhere.”¹⁴

PROJECT IMPLEMENTATION STAGE

In the implementation stage, public procurement entities must first and foremost adhere to public procurement regulation. Additionally, they are required to report biannually and annually to the Ministries about their use of allocated funds and whether the, “funds have been used adequately and with no contractual breaches.”^{15, 16} Data on reported expenditure compared to allocated funds is available on the Ministry of Finance website, but only from 2010 and not in open data format.¹⁷

MONITORING AND EVALUATION OF PROJECTS

The accountability of public spending on infrastructure projects included in the SIP depends to a large extent on internal control mechanisms applied by the public procurement entities owning the projects. In practice, this most often means that the public entity verifies whether the project has been delivered and reviews if has stayed within budget. Post-project-delivery evaluations must also be carried out to assess whether the goals of the project have been met, the project’s value-added and long-term impact, and whether the results have been achieved efficiently.¹⁸

There are examples of the control mechanism being effective in following up on unsatisfactory project delivery. In 2018, after identifying questionable quality of a public roads project, the Ministry of Transport and Communication initiated an audit of 33 similar projects. Nine out of 10 of the audits concluded to date have identified substandard quality of the projects, with issues identified such as inadequate thickness of concrete, poor quality materials and departure from or not meeting technical specifications.

The faulty projects were carried out by the following six companies: UAB Alkesta, UAB Panevėžio keliai, UABKauno keliai, UAB Parama,

14 Organisation for Economic Co-operation and Development, Lithuania: Fostering Open and Inclusive Policy Making, OECD Public Governance Reviews, OECD Publishing, Paris, 2015, p. 1, available at: read.oecd-ilibrary.org/governance/lithuania-fostering-open-and-inclusive-policy-making_9789264235762-en#page1

15 Ibid., Section II

16 Government of the Republic of Lithuania, Decree No. 20-799, 2015, available at: www.e-tar.lt/portal/en/legalAct/TAR.1F222CCAB5C9/NlzXanvCFG

17 Ministry of Finance, Biudžetas, 2017, available at: finmin.lrv.lt/lt/veiklos-sritys/biudzetas-kapitalo-investiciju-panaudojimas

18 Government of the Republic of Lithuania, Decree No. 1K-256, 2010, Art 28, available at: www.e-tar.lt/portal/lt/legalAct/TAR.C21E5B000B5E

UAB Kamesta and UAB Kauno tiltai.¹⁹ The Ministry has confirmed that the contractors are obliged and will rectify the faults, but it remains to be seen how and when this will be done.

The concern is, however, that there is no legislation or detailed guidelines instructing which public procurement entities have to produce evaluations and internal control mechanisms. This is even more of a challenge given that there is no legal obligation to make these evaluations public.²⁰ As stated in as stated in the section 'Innovative mechanisms and good practice', the NAO plays a central role in holding the Government's agencies to account. NAO conducts and publishes online annual ex-post audits of the state budget, of which the SIP makes up a substantial component.²¹

The recent intervention by the Public Procurement Office (PPO), referred to in the section 'Innovative mechanisms and good practice' as an innovative governance mechanism, has already increased value for money on one project, with savings of more than €6 million achieved. During the past few years, such interventions by the PPO have become more frequent for tenders of greatest public interest, although the method for initiating interventions is not publicised.

WHISTLE-BLOWER MECHANISMS

The construction industry is perceived as one of the most vulnerable to corruption, and 59% of Lithuanian business people admit informal influencing is widespread.²² The State Territorial Planning and Construction Inspectorate, which is responsible for supervising construction in Lithuania, is perceived to be one of the most corrupt institutions in the country. According to Lithuanian citizens, 33% considered it to be corrupt in 2016, which was 7% more than in 2014.²³

Public procurement entities, regardless which field they work in, normally have internal reporting channels, although there is no data or other evidence demonstrating that they would provide support in reducing corruption or protect those who report it. Only 53% of public procurement entities have staff specifically assigned to respond to whistle-blowers and only 35% ensure that those accused are prevented from getting access to

19 Sergienko D, Pirmojo kelių audito rezultatai: 9 iš 10 kelių – nekokybiški, prarasta 5,5 mln. eurų, 15min.lt, 1 February 2018, available at: www.15min.lt/gazas/naujiena/gatve/pirmojo-keliu-audito-rezultatai-is-tirta-tik-10-keliu-taciau-prarasta-5-5-mln-euru-221-919418

20 Only the types of evaluations are mentioned: mixed (external) and internal

21 National Audit Office, Finansinis auditas, 2018, available at: www.vkontrole.lt/audito_ataskaitos.aspx?tipas=1

22 Transparency International Lithuania, Požiūris į Lobistinę Veiklią Reprezentatyvi Lietuvos Įmonių Apklausą, 2014, available at: www.transparency.lt/wp-content/uploads/2015/10/verslininku_poziuris_i_lobistine_veikla1.pdf

23 Special Investigation Service, Lietuvos korupcijos žemėlapis 2016, 2016, available at: www.stt.lt/documents/soc_tyrimai/LKZ_2016.pdf

the information revealed.²⁴ As a result of these insufficient provisions and protections for whistle-blowers, only 7% of people who have encountered possible corruption report it.²⁵

Whistle-blowing returned to the political agenda after journalist Rasa Kazeniene publicly reported potential wrongdoings in the prison system in early 2017.²⁶ The Government quickly reacted to widespread public outcry. In its Action Plan, approved on 13 March 2017, it highlighted whistle-blowers' protection as one of the top anti-corruption priorities, together with reducing bribery levels in healthcare, encouraging healthcare institutions to adopt new anti-corruption measures and improving the procurement system for expensive medical equipment.²⁷ As a result, a new law on whistle-blower protection will come into force on 1 January 2019.²⁸ ■

24 Transparency International Lithuania, Pranešimų Lietuvos Respublikos Institucijose Priėmimas, 2013, available at: www.transparency.lt/wp-content/uploads/2015/10/2012_pranesimu_priemimo_lr_institucijose_tyrimas-2.pdf

25 Transparency International Lithuania, Pranešimų Lietuvos Respublikos Institucijose Priėmimas, 2013, available at: www.transparency.lt/wp-content/uploads/2015/10/2012_pranesimu_priemimo_lr_institucijose_tyrimas-2.pdf

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7. POTENTIAL ADDED VALUE OF COST

The core features of CoST – the Infrastructure Transparency Initiative (CoST) are disclosure, multi-stakeholder working and assurance. These resonate with the Lithuanian Government’s commitment to greater transparency, participation and accountability in the public sector, and in relation to strategic planning and budgeting, which takes the country another step away from its more distant legacy as a closed and controlled society.

As demonstrated in this report, Lithuania has already taken steps towards improving the governance of public infrastructure investments: making planning and delivery more open and transparent, seeking to engage stakeholders in the process and strengthening accountability within the sector. Building on these achievements, and with the imminent changes to the way the State Investment Programme (SIP) is being developed and implemented, Lithuania could assume a role as a leader in the region through adopting and adapting standards and tools that would provide a roadmap for further reforms.

Embarking on multi-stakeholder working, disclosing infrastructure data in line with the CoST Infrastructure Data Standard (IDS), and validating and interpreting the data for broader public consumption all seem to have potential to complement existing efforts.

DISCLOSURE

The level of data pertaining to the infrastructure project cycle, from identification, through preparation, procurement, implementation and completion, that is accessible to the public in Lithuania corresponds to 65% of the data required by the internationally recognised CoST IDS. Compared to international practice, this represents a reasonable level for a country that has not yet embarked on a targeted reform to raise the bar. However, the data that is disclosed to the public is scattered, disjointed and not easily accessible.

Importantly, 92.5% of the data required is already produced for use within the Government. This suggests that the administrative burden of disclosing this data is limited, making it an easier choice to increase disclosure. Currently the gap between what is produced and legal requirements for disclosure is 60.5 percentage points. The data that is not disclosed

concerns the most sensitive areas of infrastructure delivery, namely project implementation and whether projects are on budget, on time and the reasons for variations to price, scope and duration.

Using the CoST IDS as a standard for infrastructure transparency could provide Lithuania with clear guidelines on what to disclose to raise the bar and become a regional leader on infrastructure transparency. It is a free, off-the-shelf tool that according to the findings of this study is relevant to the Lithuanian context.

CoST can support the implementation of the CoST IDS as it has done in numerous countries around the world, facilitating disclosure through standardisation of disclosure, development of manuals and institutionalising disclosure. The usual practice, which seems relevant to address the gap between mandatory and actual levels of disclosure found in Lithuania, is to start with an interim disclosure requirement. This instrument pilots mandatory disclosure in line with the CoST IDS, which is then usually replaced by a formal disclosure requirement in the form of a decree or directive making the new approach permanent.

Part and parcel of CoST's work in promoting infrastructure transparency is to support the establishment of central online, open source platforms, where citizens can easily access and visualise data about infrastructure projects in a user-friendly manner. In Lithuania this could be built around the SIP and, as they become increasingly integrated with the SIP through the new approach to strategic planning and budgeting, projects financed by EU structural funds, while local governments could be linked up adding smaller-scale projects in their respective areas.

MULTI-STAKEHOLDER WORKING

Infrastructure provides an apt yet challenging area to boost stakeholder engagement as it directly affects citizens and relies on the private sector for implementation. It is encouraging to see that public procurement entities in Lithuania have started taking on the challenge, if only in a few cases and extending only to consultation of stakeholders.

It is revealing that there seems to be a lack of knowhow on how to manage stakeholder engagement and make it a successful effort. This often creates apprehension about taking these efforts further. Yet international experience has shown that stakeholder engagement in the infrastructure project cycle is vital for better planning and more efficient project implementation.

The CoST core feature of multi-stakeholder working represents a framework for sustained and constructive engagement, not only for civil society but also for the private sector in infrastructure planning and delivery. It entails

as a fundamental principle that stakeholders must have a seat at the policy table and participate as partners in decision-making. This goes beyond the definition of active participation by the Organisation for Economic Co-operation and Development (OECD) and represents a progressive approach to stakeholder engagement.

In CoST member countries, the process is usually formalised through the creation of a multi-stakeholder group (MSG), with each sector (Government, private sector and civil society) represented. The role of the MSG is to oversee the implementation of CoST core features in the country.

Given the decentralised nature of infrastructure planning and delivery in Lithuania, an overarching MSG does not appear to be a viable policy option. This could change, however, if Lithuania followed the recommendations of OECD and others to take a more strategic approach to infrastructure planning and delivery, setting up institutions to provide guidance and oversight of the process.

Multi-stakeholder working also holds the potential of profoundly addressing the deficit of stakeholder engagement in infrastructure projects and provides a structured approach to manage and overcome the feeling of engagement being an obstacle. It offers a structured forum for discussing different options and tackling issues that tend to emerge further down the project cycle if left unaddressed.

Reaching agreement about strengthening stakeholder engagement and identifying the best tools and standards can take time. However, the timing seems opportune in Lithuania given the Government's stated commitment to create a methodology for strengthening public engagement to be delivered by July 2019.

ASSURANCE

The CoST assurance process is a regular, systematic and independent review of disclosed data, verifying the accuracy of the disclosed data and issues of concern for the public. The findings and recommendations are published in a report. It is usually overseen by a MSG, which contributes towards ensuring the independence of the experts selected for the task.

An independent assurance process adapted to the Lithuanian context would complement efforts already underway in the country. Given the strength of the institutions providing oversight and ex-post controls, assurance could be designed to pay more attention to the extent to which projects adhere to project specifications and contractual obligations. In this way, it could help address the finding of this study that, despite formal process requirements, the monitoring of infrastructure projects remains variable and lacks systematic supervision.

The CoST assurance process also has the potential for providing independent reviews of projects at the inception stage, reviewing the quality of project appraisals and contributing to the selection of projects based on strategic priorities and value-for-money assessments.

CONTRIBUTION TOWARDS STRATEGIC PLANNING AND BUDGETING REFORM

The Government has stated its objective to strengthen the transparency and accountability of public investments by moving towards more strategic planning and budgeting (see section 3.2.4). CoST is designed specifically for this purpose and could complement the reform process in several ways.

Adopting a strategic approach to public investment management that integrates the CoST IDS would enable generation and disclosure of comparable data top-down. Requiring disclosure of data consistently across procurement entities for all projects above a certain threshold would increase transparency and bring greater benefits than a gradual adoption by individual procurement entities. Disclosing through an online data platform would further enhance the usefulness and benefits of the increased transparency. An important component of this reform process would be to assign a unique reference number to projects, allowing related transactions to be easily linked and reconciled to a specific project. One example of this would be to facilitate reconciliation of project budgets and completion cost.

Innovative mechanisms can be introduced to help the government meet its commitment to more thoroughly assess all investment projects and promote accountability within the public investment cycle. CoST's assurance feature enables increased scrutiny of public investments in a cost-effective manner through an independent review of disclosed data: this validates its accuracy and completeness, as well as identifying issues of concern. When data is disclosed systematically, such a review can be applied at the appraisal stage to provide independent scrutiny. Applying the assurance feature at this stage would introduce a degree of preventive, ex-ante accountability and complement existing ex-post accountability mechanisms.

The CoST multi-stakeholder working approach brings together government, private sector and civil society representatives to facilitate discussion around infrastructure policy options, as part of a systematic and structured process. Integrating this kind of approach would help the Government deliver on its commitment to increase stakeholder involvement in strategic planning and budgeting. Specifically, it could be applied to help oversee the development and implementation of an infrastructure or territorial strategy guiding public investments. Such strategies are stronger if they rely on broad-based legitimacy and credibility based on the regional and sectoral diversity that can be provided through multi-stakeholder working.

Combined, these core features can strengthen existing internal (or vertical) accountability mechanisms provided by institutions such as the Public Procurement Office, the National Audit Office and internal control mechanisms. Most importantly, however, they can contribute by adding an external (or horizontal) dimension of accountability to existing mechanisms. It is through their combination that the CoST core features most effectively help increase accountability and produce better outcomes from investments in public infrastructure.

USE OF COST TOOLS AND STANDARDS

Countries can join CoST as members or affiliated members, or adapt its core features freely if they see any shortcomings in infrastructure governance and feel the standards and tools are adaptable to their context.

The architecture of the CoST initiative allows each country to prepare their own action plans and raise country-specific goals.¹ Each member is free to draft their implementation plans and move at their own pace when accomplishing key activities. If needed, CoST can provide advice and assistance based on its experience of working with other countries. ■

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8. CONCLUSION & RECOMMENDATIONS

Lithuania has invested substantially in public infrastructure over the past few decades, aided by European Union (EU) structural funds, and scores well on indicators measuring the quality of infrastructure in comparison with other EU countries.

Challenges remain in terms of ensuring the efficiency of investments, and there are still concerns about mismanagement, waste and corruption. Moreover, infrastructure investment in Lithuania tends to rely on political cycles rather than long-term infrastructure planning. This places infrastructure projects at the risk of constant change, depending on political variations, and leads to projects being suspended and funds transferred to new investments.

Decision making is highly decentralised, which has its merits. But in the absence of clear priorities, funds tend to be distributed to a wide variety of areas within different sectors. This raises questions about the absence of a long-term infrastructure vision.

A separate national infrastructure strategy would help to understand the role of infrastructure in delivering on the broader strategies, such as the State Advancement Strategy 2030, and their expected outcomes. It would also help the Government to consider synergies between specific (larger) projects, different sectors and levels of Government.

Further benefits of a separate infrastructure strategy would include the possibility of high-level public engagement in the identification of national priorities for public infrastructure, strengthening their legitimacy and building trust in the Government. It would also facilitate monitoring and oversight of the Government's investments (including debt-financed projects with higher risk) in infrastructure. In addition, it would provide a better operational environment for the private sector through increased certainty of plans, projects and financing.

Openness and accountability are important policy objectives of the Organisation for Economic Co-operation and Development. They are included as goals in Lithuania's State Advancement Strategy 2030 and the country has already joined the Open Government Partnership.

Adopting and adapting the core features of CoST – the Infrastructure Transparency Initiative (CoST) and proactively strengthening transparency,

participation and accountability in infrastructure governance has the potential of adding value to existing efforts in these areas. It will reinforce the new approach to preparing and implementing the State Investment Programme (SIP), which the Government could use to position Lithuania as a leader in the region on infrastructure transparency.

RECOMMENDATIONS

Drawing from the findings of this report, Transparency International Lithuania and CoST have five recommendations to improve infrastructure governance and ensure efficient infrastructure planning and delivery in Lithuania:

1. Ensure that the reforms to SIP strengthen coherent long-term infrastructure planning. A long-term infrastructure plan should change short-term thinking produced by political cycles and allow managing authorities to prioritise more effectively.
2. Introduce clearly-defined criteria to evaluate the success of infrastructure projects. Public sector institutions should measure the impact of implemented infrastructure projects and present these insights in an accessible and comprehensible manner. These should be subject to independent review.
3. Disclose, validate and review data according to the CoST Infrastructure Data Standard to increase the level of transparency and accountability of infrastructure projects. This would allow interested parties to be better informed about the progress of infrastructure projects, scope of completion, reasons for budget changes and other key information.
4. Develop guidelines to engage better with different stakeholders and systematically involve interest groups. Working with stakeholders would allow better identification of the needs for possible infrastructure projects and reduce risks and uncertainties. The Government should establish practical guidelines for successful public participation from the project inception stage, drawing on experience with the use of multi-stakeholder working and social accountability.
5. Strengthen the accountability of infrastructure investments by drawing on the experience of independent review of data disclosed throughout the infrastructure project cycle. This will give assurance to citizens that public money is being spent properly and efficiently and delivering value for money. ■

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