

UNITED NATIONS DEVELOPMENT PROGRAMME
Project of the Government of Lithuania

Project information

Project number: LIT/01/004
Project title: Support to the legislative (law-making) reform
Project short title: Legislative reform

Estimated start date: 11/06/2001
Estimated end date: 11/06/2002

Executing agent: The Ministry of Justice of the Republic of Lithuania
Government cooperating agent:
Implementing agent(s): The Law Institute
Project site: Vilnius, Lithuania

Beneficiary countries: Lithuania

Summary of UNDP and cost-sharing inputs [as per attached budgets]	
UNDP:	
TRAC (1 & 2), \$	50,000
TRAC (3), \$	
STS, \$	
Other, \$	
Cost-sharing:	
Government, \$	15,000
Financial institution, \$	
Third party, \$	
TOTAL, \$	65,000
Administrative and operational services	
[where applicable]	
SOF 03, \$	
SOF 07, \$	
Other (cost-sharing), \$	
TOTAL, \$	

Classification Information:

ACC sector and subsector: Social development, human rights
DCAS sector and subsector: Social development, social legislation and administration

Government sector and subsector:
Primary areas of focus/sub-focus: Promoting sound governance, improvement of government institutions and democratic processes
Secondary areas of focus/sub-focus:

Primary type of intervention: Capacity-building
Secondary type of intervention:

Primary target beneficiaries: President's commission on law-making

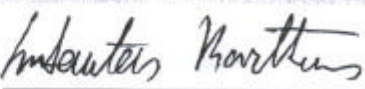
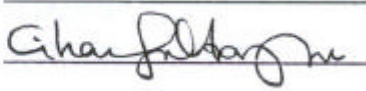
Secondary target beneficiaries: Public at large, the vulnerable groups

Government inputs:
[local currency]
(in kind), Lt
(in cash), Lt

LPAC approval date:	08/06/2001
Programme officer:	Tomas Baranovas

Brief description:

The project is designed to provide technical assistance to the Commission established by the President of the Republic of Lithuania in undertaking a comprehensive scientific study of the current situation of law-making in Lithuania, and, based on the study, in preparing a model of law-making and suggestions for its implementation.

On behalf of:	Signature	Date	Name & Title
The Ministry of Justice of the Republic of Lithuania		2001 06 11	GINTAUTAS BARTKUS MINISTER OF JUSTICE
UNDP		11/06/2001	Cihan SULTANOGLU

INTRODUCTION

The restoration of Lithuania's independence on 11 March 1990 marked an end to half a century of Soviet occupation. The newly reborn Lithuanian state took a firm course towards re-integration into the global community of free and democratic nations. The process of reform entailed a major transformation of the society's social organisation.

In the context of remarkable changes, the importance of law as a social regulator increased substantially. The country faced a dual challenge: on the one hand, to re-build the whole legal framework in order to fit the needs of a sovereign and democratic state; on the other hand, to restore the citizens' trust in law and legal institutions.

Although some legal acts adopted under the Soviet regime remain in force, the national legislative framework was essentially transformed during the past decade. The number of adopted laws per year steadily increased from 117 in 1990 to 520 in 2000, amounting to 2951 during this 11-year period. During the same period, the number of adopted Government decrees was 13570, rising from 324 in 1990 to 1516 in 2000. In 2000, two major pillars of the national legal system, the Civil code and the Penal code, were adopted, and their enactment is pending.

On the other hand, citizens' trust in legal institutions is among the lowest in all countries of Central and Eastern Europe. Confidence in law in general is undermined by the growing volume and frequent changes of the adopted legislation. For instance, out of 520 laws adopted in 2000, 400 (77%) either amended or replaced the previously adopted ones.

A decade after regaining independence, pending the accession into the North Atlantic Treaty Organisation and the European Union, it is essential to restore the citizens' trust in law thereby strengthening democracy, respect for human rights and facilitating Lithuania's social development.

CONTEXT

On 20 April 2000, a scientific-practical conference "Reform of Legal System: Problems of Legislation" was held in Vilnius. This was the first of the planned series of four conferences covering the main elements of the legal system. The conference was organised by the Law and Order committee of the Seimas (the Parliament), the Ministry of Justice, the Institute of Law, the Lithuanian Lawyers Association with participation of many other key legal institutions and support of the Open Society Fund Lithuania. Presentations were delivered by highest-level representatives of all branches of government. Substantial recommendations were made by all participants, including the President of Lithuania H.E. Valdas Adamkus.

Presentations mirrored the main problems of the current state of legislation. They could be grouped in the following way:

- Absence of clear principles of legislation
- Absence of strategy of legislation
- Problems related to the process of drafting of legal acts

Neither the Law on Drafting Laws and Other Legal Normative Acts nor any other legal act formulates the principles of legislation. This causes, *inter alia*, the lack of a clearly-stated link between legislation and human rights; the fact that laws sometimes regulate areas of social life that should be dealt with by secondary legal acts or alternative policy instruments; the disregard for the importance of society's

involvement; the often missing link between legislation and Lithuanian traditions as well as cultural values; the failure to emphasise the significance of clear and consistent legislation.

Development of legislation must be based on the development of society and fit its needs. Lithuania lacks a strategy of legislation that would name major directions of its development. Despite the fact that the Seimas confirms a plan for adopting new laws, the number of unplanned laws was three times higher than the number of planned ones in the period of 1993-1996. A method of “fire-fighting” is extensively used in law-making, which hampers the possibility to adhere to strategic directions.

A separate set of problems relates to the process of drafting legal acts. A number of important stages are either not included or are included in a non-systematic way, namely: planning, preparation of concept, discussion of concept, socio-economic expertise, public discussion of draft law. This results in numerous legal norms that in reality do not work. The law sets unnecessary constraints on human liberties. The public is not sufficiently aware of the newly created law. Laws have to be constantly changed, thus complicating the system of law even further and reducing the trust of citizens.

Insufficient qualification of drafters is another impediment to an effective system of law. Legislation is considered to be an amateur undertaking that can be done by civil servants without special training. As a result, legal acts lose their clarity, consistency and flexibility. There is a high probability of conflict with other legal acts.

Another important issue is the negative influence of interests upon legislation. The practice when a legal act is drafted by an institution that will have to apply it, is hardly feasible and effective. The lack of tradition of legal regulation of lobbying increases the risk that the legislation could be influenced in an untransparent way.

In order to initiate a systematic reform, a more detailed situation analysis was needed. The conference recommended to undertake a comprehensive scientific study of the current situation of law-making in Lithuania, and, based on the study, to prepare a model of law-making and suggestions for its implementation.

One of the key objectives of the Lithuanian Government, as indicated in the Programme of the Government of the Republic of Lithuania for 2000-2004, is the ensuring of personal safety through a reformed legislative system which would safeguard and protect human rights. In order to achieve this objective, the President of the Republic of Lithuania by the Decree No. 1142 of 20 December 2000 formed a Commission charged with the task of preparing a model of law-making. The Commission is headed by the Minister of Justice. It includes representatives from the President’s Office, the Seimas (Parliament), the Constitutional Court, the Institute of Law, the Vilnius University, the Lithuanian Law University, the Lithuanian Free Market Institute as well as UNDP.

The Ministry of Justice of the Republic of Lithuania requested UNDP’s support to the Commission. Support to the legislative (law-making) reform has been included into UNDP’s Second Country Cooperation Framework for Lithuania (2001-2003) and the Strategic Results Framework for Lithuania (2000-2003).

DEVELOPMENT OBJECTIVE

The project will assist the Commission formed by the President of the Republic of Lithuania in undertaking a comprehensive scientific study of the current situation of law-making in Lithuania, and, based on the study, in preparing a model of law-making and suggestions for its implementation.

As a continuation of the project, the implementation of the model will take place, resulting in a more effective and transparent legislative system and more adequate social regulation. This will increase the citizens' trust in law and ensure personal safety through a reformed legislative system which will safeguard and protect human rights.

STRATEGY

Implementation of the project will be based on the following set of key principles:

- **National ownership** Implementation of the project will be guided and carried out by national entities, such as the Ministry of Justice, the Commission, the Law Institute and the working group.
- **Applied research** The scientific study drafted under the project will limit its scope to the material necessary for the preparation of the model.
- **Systematic reform** The scientific research and the model will be drafted acknowledging the systematic linkages among various aspects of law-making. The project will aim for a synergetic effect to be achieved through application of a systematic approach. In particular, the applicability of policy instruments alternative to legal regulation will be explored.
- **Transparency** The process of implementing the project will be transparent, involving consultations with a variety of stakeholders including independent experts, professional associations and NGOs.

For the sake of consistency, the results to be achieved under the project are divided into two major outputs, as formulated in the decree of the President: (1) a scientific study of the current situation of law-making in Lithuania and (2) a model of law-making as well as suggestions for its implementation. However, the work towards achievement of these outputs will proceed simultaneously rather than consecutively, retaining coherence as a necessary precondition.

In the process of drafting the scientific study and the model, existing situation analyses on law-making in Lithuania and abroad will be used to the maximum possible extent. Special consideration will be given to the recommendations of the conference on reform of the legal system of 20 April 2000.

The model of law-making and suggestions for its implementation drafted with assistance of the project will be presented to the Seimas (Parliament) for approval and further implementation.

PARTNERSHIPS AND LINKAGES

Partnerships among all stakeholders are crucial in order to avoid duplication and create synergies. Special emphasis will be given to partnerships with relevant professional groups, civil society organisations and donors. It is also important to transcend the circle of legal professions, in order to get valuable inputs from representatives of other fields.

The project will build on linkages with other national development strategies and reform initiatives. Specifically, linkages with the development of the National Human Rights Action Plan will be explored, recognising the interdependence between an efficient system of law-making and respect for human rights. The project will closely coordinate with the reform of public administration and the process of adoption of the *Acquis Communautaire* of the European Union.

IMMEDIATE OBJECTIVE, OUTPUTS AND ACTIVITIES

The immediate objective of the project, the outputs to be achieved and the activities necessary to produce them are as follows:

Objective

A framework for an effective legislative system established.

Indicator: the model of law-making approved by the Seimas.

Outputs

1. A scientific study of the current situation of law-making in Lithuania prepared.

Indicator: the scientific study published and widely disseminated.

2. A model of law-making and suggestions for its implementation prepared.

Indicator: the model published and widely disseminated.

3. Experts and the society aware of project developments and able to contribute.

Indicator 1: number of occurrences of informing experts and the society.

Indicator 2: number of contributions by experts and the society.

Activities

(a) To establish a working group by the Law Institute.

(b) To recruit a Project Manager.

(c) To organise the drafting of the scientific study of the current situation of law-making.

(d) To purchase office equipment necessary for implementation of the project.

(e) To organise study trips to relevant conferences/workshops and/or relevant institutions abroad.

(f) To translate a summary of the scientific study into English.

(g) To prepare the scientific study for distribution.

(h) To organise the drafting of the model of law-making and suggestions for its implementation.

(i) To translate the model and the suggestions into English.

(j) To prepare the model and the suggestions for distribution.

- (k) To involve international experts if necessary.
- (l) To organise roundtables/workshops with experts.
- (m) To organise presentations of project results to the public.

INPUTS

1. Government inputs

The Ministry of Justice will allocate to the project 15,000 USD as Government cost-sharing. The Government cost-sharing contribution will be deposited in the following account:

UNDP's Contribution Account
Account No. 015-002284
Chase Manhattan Bank, New York
Project Title: Legislative reform
Project No. LIT/01/006

The Ministry of Justice will assign an overall coordinator of the legislative reform. She/he will link activities under the project with initiatives of other partners in this field.

2. UNDP inputs

UNDP will contribute 50,000 USD towards achievement of the results of the project. UNDP will assist in implementation of the project through its responsible Programme Officer.

3. Partner inputs

The Open Society Fund Lithuania will support the legislative reform through a separate agreement with the Implementing agent.

RESOURCE MOBILISATION

Given the limited resources available, the project will actively seek to attract external resources for implementation of the new model of law-making. Partnerships in sharing costs will be based on the understanding of the synergetic effect of joint action. Donors will be involved in the project from its early stages.

INSTITUTIONAL FRAMEWORK

The project will be executed and managed in the spirit of the guidelines and principles of national execution modality. The main responsibility for the overall achievement of results will be with the Ministry of Justice of the Republic of Lithuania. The project will be implemented by the Law Institute. The UNDP reserves the right to review the relevance of proposed actions under this project in terms of their cost effectiveness and relevance to the Sustainable Human Development Concept.

TARGET BENEFICIARIES

The project will assist the Commission formed by decree of the President of the Republic in performing its assignment. By laying ground for a more transparent and effective legislative system, the project will benefit the public at large, including the vulnerable groups.

RISKS

The project faces the following risks:

- A synergetic effect of a systematic reform may be compromised due to political pressure for *ad hoc* measures.
- Due to wide-ranging responsibilities of members of the Commission, their engagement with the Commission's work may not be effective.
- The work of the Commission may not be accepted by wide circles of lawyers and the general public unless it is performed in a transparent manner.

MANAGEMENT ARRANGEMENTS

UNDP guidelines and policies for NEX (national execution) project monitoring and evaluation will be adhered to in the process of implementation of this project.

A working group will be established by the Implementing agent. It will consist of experts representing various responsible institutions and the academia. Any member of the Commission may participate in the work of the working group. Its primary task will be to draft the scientific study and the model of law-making for presentation to the Commission.

The working group will report to the Commission on a regular basis. Within the framework of the overall assignment, the Commission may adjust the directions of activities of the working group.

A Project Manager will be recruited by the Implementing agent and approved by the Commission and UNDP. She/he will bear the overall responsibility for operational management of the project, including fulfilment of UNDP operational requirements.

A work plan will be prepared and submitted to the Commission for approval one month after the start of the project. Based on the project document, it should explain in detail how the activities will be performed, indicate partners, duration and estimated cost of activities.

A mid-term progress report will be submitted to UNDP towards the middle of implementation of the project, as specified in the work plan. A final report, outlining the activities of the project, the major outputs and results obtained will be prepared towards the end of the project. It will be reviewed at a terminal tripartite meeting. The reports will be shared with key partners.

An audit will be performed upon termination of the project, according to UNDP requirements.

LEGAL CONTEXT

This Project document shall be the instrument referred to as such in Article 1 of the Standard Basic Agreement (SBA) between the Government of Lithuania and the United Nations Development Programme of 12 July 1993.

Equipment purchased from project funds from the moment of acquisition shall be the property of the project.

The following types of revisions may be made to this Project document with the signature of the UNDP Resident Representative only, provided that she/he is assured that the other directly concerned parties have no objections to the proposed changes:

(a) Revisions in, or additions to, the document which do not involve significant changes in the immediate objectives, outputs or activities of the project, but are caused by the re-arrangement of inputs already agreed to or by increases in costs due to inflation, and

(b) Mandatory annual revisions which re-phase the delivery of agreed inputs, or which increase experts and other costs due to inflation or take into account agency expenditure flexibility.

BUDGET

A detailed budget is attached to the project document. A breakdown of estimated expenditures according to the activities is provided below:

	USD
(a) To establish a working group by the Law Institute.	-
(b) To recruit a Project Manager.	3000
(c) To organise the drafting of the scientific study of the current situation of law-making.	15000
(d) To purchase office equipment necessary for implementation of the project.	3000
(e) To organise study trips to relevant conferences/workshops and/or relevant institutions abroad.	9000
(f) To translate a summary of the scientific study into English.	1000
(g) To prepare the scientific study for distribution.	1500
(h) To organise the drafting of the model of law-making and suggestions for its implementation.	15000
(i) To translate the model and the suggestions into English.	3000
(j) To prepare the model and the suggestions for distribution.	1500

(k) To involve international experts if necessary.	3000
(l) To organise roundtables/workshops with experts.	2000
(m) To organise presentations of the project results to the public.	3000
Miscellaneous	2000
Sundries	1000
Audit	2000
Total	65000