

## Reply of Lithuania to the questionnaire on the human rights impact of fiscal and tax policy

### ***Regarding question 1***

The taxes paid as a share of GDP show what share of GDP is redistributed via the budget of Lithuania. Hereby we present the information on Lithuania's general government taxes, social contributions and total revenue in 2012.

	In 2012, LTL mio	Tax/GDP ratio, %	Tax/revenue ratio, %
<b>Indirect taxes</b>	12,620.8	11.1%	33.9%
<b>Direct taxes</b>	5,550.6	4.9%	14.9%
<b>Wealth taxes</b>	4.1	0.0%	0,0%
<b>Social contributions</b>	12,846.8	11.3%	34.5%
<b>Taxes and social contributions of general government</b>	31,022.29	27.3%	83.4%
<b>GDP at current prices</b>	113,734.7		
<b>Revenue</b>	37,213.6		

*Source: Statistics Lithuania.*

### ***Regarding question 2***

In order to establish a harmonious modern Lithuanian tax system stimulating a rapid economic growth, ensuring stable budget revenue, equitable and proportionate distribution of taxes, fair competition, taxes and their administration procedures are established by tax laws drafted in accordance with common taxation principles and in harmony with legal acts regulating taxation in the European Union. Basic taxation principles followed in establishment of the Lithuanian tax system and which are not in prejudice to all tax legal acts are as follows: taxpayers' equality principle (in applying tax laws all taxpayers, due to the provisions of these laws, are equal); the principle of justice and general obligation (taxes must be paid by all taxpayers in accordance with the procedure prescribed by tax laws; to set tax exemptions of individual nature is prohibited; a tax administrator in administering taxes must follow criteria of rationality) and taxation clarity principle (contents of a tax liability has to be clearly defined by legislation). In our opinion, in evaluating whether the Lithuanian tax system makes preconditions for ensuring economic and social rights of persons, the basic aspect is the evaluation of the tax fiscal function. In this aspect, economic and social rights of persons are implemented first after evaluation of the scope of the rights – it is carried out each year by drafting and approving the State budget and municipal budgets, while preconditions for ensuring the implementation of the rights – at collection- distribution stage.

### ***Regarding question 3***

*Regarding the establishment of tax legislation.* Pursuant to Article 127 of the Constitution of the Republic of Lithuania, taxes, other budgetary payments and dues are established by the laws of the Republic of Lithuania. Both the Statute of the Seimas of the Republic of Lithuania and the Working Regulation of the Government of the Republic of Lithuania establish the procedures for drafting legislation, including tax legislation, coordinating with interested institutions and adopting it, by which the principles of publicity of tax draft legislation, public participation, transparency and accountability are ensured. Following their provisions, the envisaged impact of the regulation of tax legislation is considered in preparation of the law regulatory approach, explanatory notes on tax laws and certificates on impact assessment of legal regulation of Government resolutions. Pursuant to the provisions of Article 11 of the Republic of Lithuania Law on Tax Administration, subordinate legal acts implementing the tax laws are adopted by the Government of the Republic of Lithuania or by the Ministry of Finance under mandate from the Government. The Ministry of Finance publish both draft tax laws and draft subordinate legal acts implementing the tax laws in the Subsystem for Draft Legislation of the Information System of the Seimas following the procedure established, thus opening up real possibilities for the public and interested groups to participate in the process of drafting and coordinating draft tax legislation. It also should be mentioned that meetings of the Government and the Seimas of the Republic of Lithuania are transmitted online, during discussions of substantive issues in the committee meetings of the Seimas the questionnaires are arranged and etc. – this also ensures the implementation of publicity, public participation, transparency, non-discrimination and responsibility principles.

*Regarding the implementation of tax legislation.* Analogical rights to participate in the process of implementation of tax legislation are drawn up for the public and interested groups also in coordinating concise tax law explanations (the opinion of the central tax administrator on how the tax administrator understands and applies the provisions of the tax law is coordinated with the Ministry of Finance) – during the coordination process of explanations, the latter are published on the website of the tax administrator by the procedure established and before their final coordination the public comments on these drafts are taken into consideration.

### ***Regarding question 4***

*Regarding intergovernmental tax cooperation.* The Government of the Republic of Lithuania on behalf of Lithuania concludes bilateral conventions for the avoidance of double taxation of income (and capital) and for the prevention of fiscal evasion that firstly aim at legal certainty for investors, secured avoidance of double taxation of income (and capital), parallel agreement on standards of cooperation between tax administrators in order to strengthen the fight against tax evasion, also to protect public finances. We would like to note that currently 49 such conventions are applied in Lithuania (available at the following address: [http://www.finmin.lt/c/portal/layout?p\\_1\\_id=PUB.1.66](http://www.finmin.lt/c/portal/layout?p_1_id=PUB.1.66)).

Moreover, on 7 March 2013 Lithuania signed the Convention on Mutual Administrative Assistance in Tax Matters, which provides for all possible forms of co-operation between the states, which signed the Convention, in collection of taxes with view of assistance in calculating and collecting taxes, in particular in combat against tax fraud (the Convention is planned to be ratified in the Seimas by the end of the current year).

Also, the Agreement between the Government of the Republic of Lithuania and the States of Guernsey for the Exchange of Information Relating to Tax Matters was signed on 20 June 2013, which will offer a possibility of exchanging the information relating to collection of direct taxes and cooperating in various tax collection areas, such as assistance in calculating and collecting taxes, combat against tax fraud (the Agreement is planned to be ratified in the Seimas by the end of the current year).

*Regarding tax havens.* In order to preclude tax evasion, i.e. for transfer of taxable profits of enterprises established in Lithuania or taxable income of residents to other states for enterprises founded for tax reduction purposes and in reality not actively engaged in activities, the Republic of Lithuania Law on Corporate Income Tax and the Law on Income Tax of Individuals define the target territory (otherwise called – tax havens). Both the Law on Corporate Income Tax and the Law on Income tax of Individuals provide for some limitations applied on transactions or economic operations with enterprises or residents registered in the target territories and whose permanent place of residence is in this particular territory. Also, in order to preclude tax evasion in Lithuania, the so called controlled foreign company tax rules are also applied, according to which under the conditions prescribed by the Law on Corporate Income Tax and the Law on Income tax of Individuals and subordinate legal acts implementing the laws both a controlling Lithuanian enterprise and a controlling permanent resident of Lithuania have to include positive income, i.e. income of a controlled foreign enterprise, if this enterprise is not registered on a relevant list of foreign states or it corresponds to a particular form of business organisation, into their own income .

*Regarding exchange of tax information.* It should be noted that the Government of the Republic of Lithuania seeking to preclude tax fraud supports all the most advanced initiatives of the international society and EU in exchange of information (among which in exchange of information on direct beneficiaries).

Since 2012 Lithuania is a member of the Global Forum on Transparency and Exchange of Information for Tax Purposes. All the states – members of the Global Forum are assessed by the aspects of transparency and exchange of tax information. During the assessment various aspects of the tax system of the state, i.e. legal system and taxation system in general, legal possibilities of availability of ownership information on companies, information on financial status, banking information, norms regulating taxpayer data protection and practical implementation of the norms, are analysed in detail. Lithuania's assessment was carried out in 2013, which is mainly positive. It is considered that all elements have been implemented.

Furthermore, Lithuania supports the amendments to Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments which are related to automatic exchange of information and savings income as well as to the definition of the direct beneficiary which are planned to be adopted at EU level.

In addition, it should be stressed that at present the EU Council Working Party on Tax Questions considers a relative proposal concerning the amendment to Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation, which would be harmonised with a global standard on automatic exchange of information for tax purposes currently formed by the Organisation for Economic Co-operation and Development (OECD), thus ensuring automatic exchange of information important for tax collection between EU Member States and facilitating possibilities of exchanging such information with the third countries in future.

In the near future, it is also planned to sign the Agreement between the Government of the Republic of Lithuania and the Government of the United States of America to Improve International Tax Compliance and to Implement FATCA, where it will be agreed on exchange of tax-relevant data on income of residents of a relevant country.

*Regarding international taxes.* It should be noted that at present Lithuania does not impose a tax on financial transactions. In this case, the attention should be paid to the European Commission proposal for a Council Directive implementing the enhanced cooperation in the area of FTT currently discussed at EU institutions, which concerns enhanced cooperation in the Member States participating in the procedure to set FTT. We would like to stress that Lithuania supports the proposal, however currently does not participate in the procedure of enhanced cooperation though we do not discount the ulterior possibility of joining the procedure.

### ***Regarding question 5***

In preparation of a draft budget, strategic activity plans of institutions are taken into consideration which are prepared following long-term and medium-term planning documents, such as State Progress Strategy, National Progress Programme, Government Programme and etc. These documents set long-term objectives, tasks, and evaluation criteria covering economic and social criteria and gender equality.

We would like to inform you that for coordination of gender equality and non-discrimination, by Minister of Finance Order No. 1K-138 of 15 April 2008 on Formation of the Working Group for Supervision of Implementation of Horizontal Priorities (Official Gazette, 2008, No. 45-1699), the Working Group for Supervision of Implementation of Horizontal Priorities was formed, which prepared the Guidelines on Implementation of Horizontal Priorities by Absorbing EU Structural Assistance for 2007–2013 (hereinafter – the Guidelines). The Guidelines are published on the website: [www.esparama.lt](http://www.esparama.lt). The Guidelines, defining horizontal priorities, their main objectives, target groups, implementation indicators and presented examples how a project could contribute to the implementation of horizontal priorities, aim at facilitating the institutions administering EU structural assistance to better ensure the implementation of horizontal priorities in carrying out project eligibility assessment and monitoring implementation of the projects. In the course of the year the meetings of the Working Group are organised, where the issues of gender equality and non-discrimination are also discussed.

In the near future it is planned to organise a meeting of the Working Group with the European Institute for Gender Equality (EIGE) to discuss the topic of gender equality and non-discrimination and to perform the assessment of horizontal priority “Gender equality and non-discrimination”.

In implementation of all operational programmes financed from the EU assistance it is monitored how the projects contribute to the implementation of gender equality and non-discrimination principles. While assessing the projects the attention is paid whether the projects do not contradict gender equality and non-discrimination principles without prejudice to the Republic of Lithuania Law on Equal Treatment and Republic of Lithuania Law on Equal Opportunities for Women and Men, and do not limit equal opportunities for women and men to participate in the projects and to make use of the project results (applied to all projects), and also whether specific actions are planned in the project (demonstrated proactive approach), which contribute to the implementation of the non-discrimination principle (applied, if such a requirement is set in the Description of Project Financing Conditions). The data presented is supervised during the implementation of the project.

The projects which purposefully contribute to the implementation of gender equality and non-discrimination principles, i.e. the impact of these projects on the mentioned principles is positive, e.g. Measure “Reducing Gender Discrimination and Prevention of Social Problems in Labour Market“ under Priority 1 administered by the Ministry of Social Security and Labour and Measure “Improvement of awareness of education and technologies and Dissemination Among Students and Young People and Promotion of Gender Equality on Science” under Priority 3 administered by the Ministry of Education and Science, are also financed.

The information on how gender equality and non-discrimination principles are implemented by individual operational programmes is presented in annual implementation reports under relative operational programmes, which are available on the website: [www.esparama.lt](http://www.esparama.lt) (link: <http://www.esparama.lt/2007-2013/lt/ataskaitos/metines>).

**Regarding question 6**

Hereby we provide you with the information on State budget expenditure by function of government in 2012.

Function of government		(LTL thousand)		Lithuania
	Title	Annual plan of State budget of 2012	Execution of State budget of 2012	%
1	2	3	4	5
01.	General public services	4,720,848.0	4,431,179.3	18.2
	Debt service	2,154,333	2,060,210.1	8.5
02.	Defence	1,056,844.0	1,080,807.5	4.4
03.	Public order and safety	2,221,698.0	2,058,642.4	8.4
04.	Economic affairs	6,800,531.0	5,990,279.2	24.6
05.	Environmental protection	764,990.0	770,432.2	3.2
06.	Housing and municipal economy	15331.0	13,546.5	0.1
07.	Public health services	1,930,397.0	1,878,324.4	7.7
08.	Recreation, culture and religion	559,669.0	551,810.5	2.3
09.	Education	4,369,280.0	4,360,558.6	17.9
10.	Social protection	3,357,871.0	3,234,916.1	13.3
	<b>Total</b>	<b>25,797,459.0</b>	<b>24,370,496.7</b>	<b>100.0</b>