**Information by the Government of Lithuania in response to the call for inputs of Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression Ms. Irene Khan on the issue of opportunities, challenges and threats to media in the digital age**

1. a) **What are the key trends, threats or challenges to the freedom, independence, pluralism and diversity of media and safety of journalists in your country, region, or globally in your view?**

**Attacks on media freedom in Belarus and Russia**

In our close neighbourhood, we are witnessing regular violence against journalists, including online attacks, in countries such as Belarus and Russia. In these states, journalists' access to the internet is restricted, their websites and social media accounts – blocked, and by themselves, they are exposed to intimidation, harassment, and other acts of violence.

Particular attention should be given to the Russian government's introduced labeling requirement for independent media outlets and non-governmental organizations. Past year Russian authorities applied the "media foreign agent" label and charged with violations, resulting in fines or closures, to media outlets operating within the country, such as "Radio Free Europe/ Radio Liberty"; student journal "DOXA"; investigative news website "Proekt", also "Mediazona "; "OVD-Info "; "Medium Orient "; "Meduza "; "PASMI news "; "VTimes "and TV channel "Dozhd". Dozens more journalists have been added to the "foreign agents" list undercutting their ability to operate. Recently, the Supreme Court of the Russian Federation ordered to shut down one of the most prominent human rights organizations in the country – the International Historical Educational Charitable and Human Rights Society «Memorial» based on accusations of failing to use the "foreign agent" label on its publications. The "foreign agent" labeling requirement for media became a tool to suppress and persecute journalists and independent media outlets. We want to draw your attention and call you to speak up against Russia's "media foreign agent" labeling requirement, which further suppresses Russians' access to independent reporting.

**Impact of the COVID-19 pandemic on media**

Media in Lithuania, like in other European countries and globally, are facing difficulties related to the COVID-19 pandemic. The pandemic, which started in 2020, is still continuing, and despite the current stabilization of the situation, the loss of revenues in the audiovisual media sector related to the COVID-19 crisis is significant. At the same time, we observed that during the COVID-19 pandemic times, significant portion of revenues from advertising moved to the internet platforms (Google, YouTube, Facebook). Online platforms have strengthened their market position and the majority of advertising revenues go to global online platforms (as stated in “Europe’s Media in the Digital Decade: An Action Plan to Support Recovery and Transformation”).

To some extent, the European media and its audiovisual sector were already facing drastic changes before the COVID-19 crisis. They were manifested in the transfer of advertising revenues from the audiovisual media outlets to the global online platforms, the fast growth rate of Internet advertising compared to TV advertising, and the increased market share of Subscription Video on Demand (SVOD), challenging the Pay TV. In fact, before the pandemic, audiences were already going online to consume audiovisual content, which involved more significant investments from TV broadcasters in OTT delivery services and on-demand services. According to the European Audiovisual Observatory, in 2020 it is estimated that the audiovisual sector lost 10% of its revenues, or close to 15%, excluding the on-demand services. In 2022 it is expected that the crisis impact may continue, with the recovery taking longer. The sudden drop in advertising drastically affected the media most dependent on this source of revenue, such as television and radio broadcasting. In Lithuania in the last 2 years 7 regional newspapers had to terminate the activity. Because of the lockdown, COVID-19 has accelerated the weight gain of e-commerce, which is retaining a larger slice of Internet advertising.

In 2016, for the first time, the internet captured more advertising investment than television in Europe and the United States. This trend has since then continued. In the first half of 2018, online sites and platforms reinforced their position as the leading advertising medium. For instance, in France, a market share of 39.2%, i.e., an increase of 5 points in one year, could be witnessed. The growing consumption of online videos partly explains this development, as digital advertising markets are increasingly driven by audiovisual content, in particular the one provided on social media.

**Misinterpretation of the regulations on the protection of personal data**

Some practical issues occur with the misinterpretation of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repeals Directive 95/46/EC (General Data Protection Regulation). An over-extended interpretation of this document in some instances complicates the ability of journalists to conduct investigations in relation to public figures. Each situation needs to be assessed on its own merits, but the protection of personal data and the Regulation must not prevent the exercise of journalists’ functions. In response to these issues, on 23 December 2021, Seimas of the Republic of Lithuania made the legislative change to the Law on the Provision of Information to the Public of the Republic of Lithuania, which broadened the definition of the public person.

2. **What legislative, administrative, policy, regulatory or other measures have Governments taken to promote press/media freedom, including media independence, pluralism, viability and ownership issues? What has been the impact of these measures? What changes or additional measures would you recommend?**

To enhance media ownership transparency the Government launched a publicly available Information System of Producers and Disseminators of Public Information, in line with the Law on the Provision of Information to the Public and Strategic Directions of the Public Information Policy 2019 – 2022. The system, named “VIRSIS”, disclose data on media owners, including ultimate beneficial owners, and, progressively, amounts of advertising income obtained from the public bodies. In order to ensure that the information is up-to-date, the system will be synchronised with other state information systems and registers and it will incorporate relevant real-time data. The system will be launched in the course of 2022.

To tackle the issue of abusive litigation, also known as Strategic Lawsuits against Public Participation (SLAPP), in spring of 2021 the Parliament of the Republic of Lithuania took an initiative and established a working group dedicated to this challenge. The following draft laws have been prepared:

* **amendment to the Code of Civil Procedure** **of the Republic of Lithuania** that provides a new possibility of early dismissal of the claim if a court establishes that this claim may be categorized as SLAPP;
* **amendment to the Criminal Code of the Republic of Lithuania** that revises the criminal liability for defamation, in order to strengthen the protection of journalists and other disseminators of public information from unjustified prosecution.

These draft laws are under consideration in the Parliament.

States should increase inter-governmental cooperation and joint initiatives dedicated to the media freedom and the safety of journalists. The sharing of experience in various international foras is vital. Lithuania actively participates in the Media Freedom Coalition, Freedom Online Coalition, and other international global initiatives. Freedom of **expression and safety of journalists is one of the main priorities of Lithuania’s membership in the Human Rights Council 2022-2024. Additionally,**Lithuania is an active member of the **Groups of Friends of Safety of Journalists in Geneva, New York, Paris, Vienna, and Strasbourg**. Lithuanian Permanent Representations in New York and Vienna co-chair the respective Groups of Friends. We would encourage countries to join together and play an active role in these global international forums dedicated to the freedom of expression and media freedom.

3. **What measures are Governments taking to support public service media? What has been the impact of such measures? What changes or additional measures would you recommend?**

Public Service Media is regulated by the Law on Lithuanian National radio and Television of the Republic of Lithuania, which ensures its independence and freedom of action. It also safeguards its financing. The Public Service Media (Lithuanian national radio and television - LRT) is funded by fixed percentage of tax revenues, a formula deduced by lawmakers to provide LRT stable annual budgets shielded from political influence. LRT budget in 2018 was EUR 38,8 million, 2019 - EUR 41,6 million, 2020 - EUR 46,3 million, 2021 - EUR 53,8 million. In 2022 LRT budget is planned EUR 55,4 million. The LRT budget is steadily increasing, despite the challenges related to the COVID-19 pandemic.

4**. What measures have a) Governments b) social media companies c) media companies taken to promote the safety of journalists? What has been the impact of these measures? What more can/should be done and by whom? Please also mention any specific laws or measures to address online violence, threats and harassment and what results they have produced.**

The framework for access to information is gradually improving in Lithuania. According to the amendments to the Law on the Provision of Information to the Public, which entered into force on 1 July 2021, journalists are entitled to have free access to information held by the real estate register and the registers of businesses and organisations.

After European Commission issued its recommendation C/2021/6650 on ensuring the protection, safety and empowerment of journalists and other media professionals in the European Union, the Government of Lithuania established a working group to coordinate its implementation. Public institutions (including law enforcement authorities) and associations of journalists have delegated their experts to this body.

The principle of human dignity, prohibition of discrimination on grounds of sex, as well as of incitement to hatred and to any form of gender-based violence within the media are ensured by the Provisions of the Criminal Code of the Republic of Lithuania (hereinafter referred to as the Criminal Code), Law on the Provision of Information to the Public of the Republic of Lithuania and Law on the Protection of Minors Against the Detrimental Effect of Public of the Republic of Lithuania.

In February 2016 the new self-regulatory code was created - Code of Ethics in Providing Information to the Public). It prohibits (a) publishing the surname or other data of a person who has suffered from sexual aggression, which could be used to identify them, (b) demean or mock a person’s gender. Implementation of the above-mentioned provisions is ensured by pre-trial investigators, media regulatory authorities (the Inspector of Journalist Ethics and the Lithuanian Radio and Television Commission), self-regulatory body – the Commission of Ethics in the Provision of Information to the Public and the Office of the Equal Opportunities Ombudsperson.

**5a. What measures have Governments taken to investigate and prosecute attacks against journalists, including online violence and harassment against female journalists? What are the barriers to fighting impunity? What changes would you recommend**?

Lithuanian police, upon notification of possible violations related to the security of journalists, investigates and assesses the nature of such acts in accordance with the Code of Administrative Offenses of the Republic of Lithuania or the Code of Criminal Procedure of the Republic of Lithuania and applies the procedures provided for therein.

The Criminal Code of the Republic of Lithuania does not provide for a journalist or his/her professional activity as a specific subject or object of the criminal offence, but attacks on journalists could be considered as a motive for the criminal offence, namely that it is precisely because of the journalist's professional activity the offence was committed.

Both the Criminal Code and the Code of Criminal Procedure provide sufficient protection and legal framework to investigate and prosecute attacks against journalists, including online violence and harassment against journalists, as well as attacks against other persons.

It should be noted that the Criminal Code [[1]](#footnote-1) contains the qualifying element – committing the offence because of the victim's duties as a servant or a citizen, and the qualifying element – seeking to express hatred against a group of persons or a person belonging to a group of persons on the grounds of their social status.

Article 148 of the Criminal Code criminalizes the restriction of human rights, Article 148(1) – the unlawful persecution of a person, and Article 154 – the defamation. Article 152 of the Criminal Code provides for criminal liability for sexual harassment against a person because of work or other reasons. If sexual violence or other criminal acts are being committed against the journalist, the perpetrator would be liable under other articles of the Criminal Code which provide for liability for offences against the freedom and inviolability of human sexual choice, or under the articles which provide liability for an offence against a person, his or her property etc.

Furthermore, Chapter XXV of the Criminal Code provides for liability for crimes and misdemeanours against the equality of persons and freedom of conscience. The provisions of this Chapter provide for criminal liability for discriminating, inciting hatred, mocking, despising, inciting to be violent or use physical violence committed against a group of persons or persons belonging to such a group on grounds of their social status (e. g. journalists). Those provisions may apply in cases of attacks against journalists, where this element of the offence exists.

Article 60 of the Criminal Code provides for an aggravating factor, namely that the act was committed with the intention of expressing hatred towards a group of persons or a person belonging to such a group on grounds of their social status (motive for the act), which could be applied to the perpetrator of an offence against journalists.

6. **What do you believe has been the impact of digital and social platforms on press/ media freedom, independence, viability and safety of journalists? What specific recommendations would you make to a) Governments and b) the companies to address or mitigate the detrimental impact?**

Regarding the specific recommendations, we believe in need to increase funding to the media projects. In Lithuania there are two Funds dedicated for this cause – The Press, Radio and Television Support Fund and the Culture Support Fund that provide co-financing for media and culture projects.

The Government of Lithuania this year is planning a comprehensive review of national media policy Follow-up measures will include a sustainable media funding model by 2023.

1. Paragraphs 2 of the Articles 129, 135 and 138 of the Criminal Code (offences against human life and health) [↑](#footnote-ref-1)