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## The Coronavirus Pandemic and the Right to Vote in Lithuania<sup>1</sup>

**Abstract:** This article analyses the special legal regimes that were introduced in Lithuania which dealt with the COVID-19 pandemic during the spring of 2020 and which decided on extraordinary measures in order to contain the spread of this vicious transmissible disease, and how the right to vote was ensured during the 2020 Parliament (Seimas) elections. After examining these special legal regimes, the article concludes that according to the Constitution, the threat to public health, inter alia caused by the worldwide spread of a vicious contagious disease, is not a constitutional ground for introducing a state of emergency per se, unless this threat to public health menaces the constitutional order or social peace. Therefore, the establishment of other special legal regimes – a disaster management regime and quarantine – was chosen, and were introduced by the government in accordance with the law. The analysis in this article shows that the right to vote during the 2020 Seimas elections was proportionately restricted due to the pandemic, and the pandemic did not prevent the holding of general, secret and direct parliamentary elections. The pandemic forced the Seimas to adopt long-awaited amendments to the laws that legalized electronic voting in the country.

**Keywords:** special legal regime, quarantine, the electoral right

### Introduction

As the COVID-19 pandemic spread across the globe, authorities across the European Union adopted myriad restrictive measures to protect people's lives and health. These interfered with a wide range of fundamental rights, such as to movement and assembly; to private and family life, including personal data protection; and to educa-

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1 The author would like to thank her student Monika Šukyte from the Faculty of Law at Vilnius University for her help in carefully collecting and translating the material for this article.

tion, work and social security.<sup>2</sup> The pandemic also affected political rights. One of the most important political rights enshrined in the Constitution of the Republic of Lithuania is the right to participate in the governance of one's country directly or through democratically elected representatives (Articles 4 and 33 of the Constitution of the Republic of Lithuania).<sup>3</sup> This right includes the right to vote, the right to initiate a referendum, the right of citizens to initiate legislation, the right to petition and the right to criticize and appeal against the work of public bodies or officials. In 2020, elections to the Seimas of the Republic of Lithuania were due to take place. The media often advertised the idea of postponing these elections until a vaccine was invented and administered, in order to protect the health and lives of citizens. However, it was decided that the Seimas elections would be held; the two rounds of the Seimas elections took place on 11 October and 25 October. In order to provide an analysis of how political rights were implemented during the COVID-19 pandemic in Lithuania, I consider in this article the implementation of electoral rights during this difficult period. The aim is to examine what special legal regimes were introduced in Lithuania during the COVID-19 pandemic and how they affected the implementation of the right to vote during the 2020 Seimas elections. The article is based on analytical methods (critically analysed legal regulation), constitutionally oriented methods (presenting the provisions of the Constitution and the constitutional doctrine) and other research methods.

## 1. The Coronavirus Pandemic and Special Legal Regimes

With the rapid spread of the new and little-studied COVID-19 virus in the early 2020s, countries needed to take urgent and effective action to halt the spread of the contagious disease and manage its effects on public health. In view of the situation and the legal framework enshrined in national law, some European countries immediately introduced special legal regimes. For example, some states imposed a state of emergency, others a quarantine or disaster management regime, and sometimes states exercised their usual national executive powers by broadly interpreting the competencies of the president or government.

Special legal regimes are usually associated with a serious threat to the interests of the state and society. At such times, the power of the state is strengthened by other constitutional entities (such as a nation, community or person). In the event

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2 European Union Agency for Fundamental Rights, Fundamental Rights Report 2021, <https://fra.europa.eu/en/publication/2021/fundamental-rights-report-2021> (accessed 30.08.2021).

3 Art. 4 of the Constitution of the Republic of Lithuania: 'The Nation shall execute its supreme sovereign power either directly or through its democratically elected representatives'; Art. 33: 'Citizens shall have the right to participate in the governance of their State both directly and through their democratically elected representatives.'

of a crisis situation in the state which is regulated by special legal regimes, temporary constitutional ‘misunderstanding’ is possible, which may be much more likely than usual because this regime is supported by centralized government measures that prevent the operation of the principle of checks and balances in these special times. Thus, on the one hand, a special legal regime may appear as a natural temporary deviation from the general constitutional balance of power, but on the other hand, this regime can be seen as a certain exception to the general legal rule.<sup>4</sup> Moreover, for the first time, we were facing a global emergency, which meant that almost all states had to adopt extraordinary measures. This is a unique situation that has not occurred since human rights treaties entered into force and international protection bodies were created.<sup>5</sup> It poses a number of challenges to democracy, the rule of law and the protection of fundamental human rights and freedoms.<sup>6</sup>

The 1992 Constitution of the Republic of Lithuania provides *expressis verbis* for only one special legal regime – a state of emergency.<sup>7</sup> However, the Constitution does not prohibit the legislator from providing for other special legal regimes. Such regimes may be introduced when ‘natural disasters, epidemics or other special cases occur’ (Article 48 Paragraph 4). Pursuant to the Constitution, only the Seimas may introduce a state of emergency, or the president between Seimas sessions. In order to establish a state of emergency, a certain legal fact must occur: a ‘threat for the constitutional system or social peace’ must arise (Article 144). Therefore, a state of emergency in Lithuania cannot be imposed when there is an outbreak of a contagious disease or an event such as an irresistible force of nature or an ecological catastrophe, unless there is a real threat that it may escalate into greater public unrest or threaten the state’s constitutional system. It should be mentioned that during the more than 30 years of the existence of the independent Republic of Lithuania, the state of emergency has never been imposed in the country, because so far there has been no real threat to the constitutional system or to social peace.

4 V. Vaičaitis, *Specialieji teisiniai režimai*, ‘Teisė’ 2020, vol. 117, p. 81.

5 C. Ayala Corao, *Challenges that the COVID-19 Pandemic Poses to the Rule of Law, Democracy, and Human Rights*, Max Planck Institute for Comparative Public Law & International Law (MPIL) Research Paper No. 2020–23, <https://ssrn.com/abstract=3638158> (accessed 16.08.2021).

6 T. Birmontienė and J. Miliuvienė, *Konstituciniai reikalavimai valstybės valdžios institucijoms reaguojant į pandemijos padiktuotus iššūkius Lietuvoje*, (in:) L. Jakulevičienė and V. Sinkevičius (eds.), *Esminiai pokyčiai I dalis. COVID-19 pandemijos sprendimai: teisiniai, valdymo ir ekonominiai aspektai*, Lietuvos teisė 2020, Vilnius 2020, p. 8.

7 Art. 144 of the Constitution of the Republic of Lithuania: ‘When a threat arises for the constitutional system or social peace of the State, the Seimas may declare a state of emergency throughout the territory of the State, or in any part of it. The period of the state of emergency shall not exceed six months. In cases of urgency, between sessions of the Seimas, the President of the Republic shall have the right to adopt such a decision and convene, at the same time, an extraordinary session of the Seimas for the consideration of this issue. The Seimas shall approve or overrule the decision of the President of the Republic. The state of emergency shall be regulated by law.’

As already mentioned, the Constitution of the Republic of Lithuania provides that other ‘special cases’ related to ‘natural disasters and epidemics’ may arise in the state. As epidemics and natural disasters can cause significant damage to society and the state as a whole, the legislature can enact special laws that establish special legal regimes to help manage such cases and restrict human rights more intensively than is normally possible. Thus, to manage these cases, the Law on the Prevention and Control of Communicable Diseases in Humans was adopted in 1996, which provides for the special legal regime of quarantine,<sup>8</sup> and the Law on Civil Protection in 1998, which provides for the special legal regime of disaster management.<sup>9</sup> Pursuant to these two laws, the government of Lithuania may introduce these two special legal regimes.

Taking into account the unfavourable global epidemiological situation of COVID-19, the government of the Republic of Lithuania, in accordance with the Law on Civil Protection, adopted a resolution on 26 February 2020 and introduced a disaster management regime ‘regarding the threat of the spread of the new coronavirus (COVID-19).’<sup>10</sup> But now, two years later, this government resolution is being criticized, and legal scholars say the Law on Civil Protection does not provide for the possibility of declaring a disaster management regime in the event of an epidemic of a communicable disease. This law provides for the possibility of declaring an emergency when there is a natural, technical, ecological or social emergency, but not a medical one.<sup>11</sup> Interestingly, on 14 March 2020, the government adopted another resolution introducing another special legal regime – quarantine.<sup>12</sup> These two resolutions provided for measures restricting human rights and freedoms; in particular, the constitutional freedom of movement, the right to work and business, freedom of assembly and association, and the right to public services were severely restricted. These resolutions were subsequently amended several times, and other new restrictions on rights, as well as new obligations, were imposed on natural and legal persons. A number of legal scholars argue that the government could not restrict human rights and freedoms on such a large scale and for such a long time; only parliament could do that.<sup>13</sup> Despite the fact that all these restrictions were adopted while seeking

8 Law on the Prevention and Control of Communicable Diseases in Humans, 25 September 1996, No. I-1553, <https://e-seimas.lrs.lt/portal/legalActPrint/lt?jfwid=-0zrzend5&documentId=TAIS.373789&category=TAD> (accessed 12.07.2021).

9 Law on Civil Protection, 15 December 1998, No VIII-971, <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.378978?jfwid=92zt7rthx> (accessed 12.07.2021).

10 Lietuvos Respublikos Vyriausybės nutarimas ‘Dėl valstybės lygio ekstremaliosios situacijos paskelbimo’, 26 February 2020, No. 152, Register of Legal Acts, No. 4023.

11 V. Vaičaitis, *Specialieji teisiniai režimai*, *op. cit.*, p. 85.

12 Lietuvos Respublikos Vyriausybės nutarimas ‘Dėl karantino Lietuvos Respublikos teritorijoje paskelbimo’, 14 March 2020, No. 207, Register of Legal Acts, No. 5466.

13 Teise.pro, *Karantinas – ir mobilumui, ir žmogaus teisėms?* <https://www.teise.pro/index.php/2020/05/01/karantinas-ir-mobilumui-ir-zmogaus-teisems/> (accessed 28.07.2021).

to ensure legitimate and constitutional aims – the protection of public health and the proper functioning of health care institutions – some of them were not legitimate as they lacked legal grounds; others could be regarded as violating the principle of proportionality and even denying the very essence of the relevant human right or freedom itself.<sup>14</sup>

Thus, due to the COVID-19 pandemic, two special legal regimes were introduced in Lithuania: quarantine and a disaster management regime. This situation was due to the fact that quarantine was possible under the Law on the Prevention and Control of Communicable Diseases in Humans, but this law did not provide for the possibility for the authorities to apply special measures to manage the pandemic situation in the country (such as the right of the police to monitor compliance with mandatory isolation or the right to impose movement and assembly restrictions). Such measures were regulated by the Law on Civil Protection, and in order to apply these measures during a pandemic, it was necessary to introduce a disaster management regime in Lithuania. This situation is often criticized by legal scholars, who point out that several special legal regimes cannot be in force in the state at the same time on the same legal basis, for example due to an outbreak of an epidemic.<sup>15</sup>

Lithuanian legal scholars, as well as public figures and politicians, have also criticized the fact that the restrictions on human rights and freedoms imposed by the government during the pandemic are not much different from those that can be applied during a state of emergency. In this way, the powers of the government compared to the legislature were strengthened during the special legal regimes, and in some ways some of the mechanisms of the principle of democracy were also weakened. Therefore, the Seimas has been encouraged to be more active and to ensure the rule of law, the principle of democracy and the mechanism of parliamentary control during quarantine and a disaster management regime.<sup>16</sup>

It should be noted that the disaster management regime declared on 26 February 2020 is still valid at the time of writing this article (September 2021), and the quarantine established on 16 March 2020 lasted until 17 June 2020. The government announced the second quarantine only after the Seimas elections on 4 November 2020. There was a lot of information in the media that the government specifically delayed the second implementation of a quarantine before the elections because it did not want to lose its voters, who were already tired of the quarantine restrictions. Thus, in 2020, the Seimas elections took place under one special legal regime – the disaster management regime. How this special legal regime affected the implementation of the right to vote during the 2020 Seimas elections will be further analysed.

14 T. Birmontienė and J. Miliuvienė, Pandemijos iššūkiai žmogaus teisėms ir laisvėms, (in:) L. Jakulevičienė and V. Sinkevičius (eds.), *Lietuvos teisė 2020*, *op. cit.*, p. 64.

15 V. Vaičiaitis, Specialieji teisiniai režimai, *op. cit.*, p. 85.

16 T. Birmontienė and J. Miliuvienė, Konstituciniai reikalavimai, *op. cit.*, p. 22.

## 2. Exercise of the Right to Vote during a Pandemic

The institution of election is one of the oldest institutes in society; in many modern states, elections are an integral part of public political life, and the level of democracy of a political regime depends on them. In democracies, elections are the main form of expression of the will of the nation and of the implementation of the sovereignty of the nation as one of the basic constitutional principles. Participation in elections is the most important means of ensuring the right and opportunity of voters to control the formation and activities of elected authorities (parliament, president and municipal councils).<sup>17</sup>

The right to vote is one of the most important institutes of Lithuanian constitutional law. The term 'suffrage' is understood in two senses: objective and subjective. The right to vote in the objective sense is a set of norms of constitutional law regulating public relations arising from the formation of electoral institutions of public power; the norms of this institute of constitutional law regulate the procedure for the organization and conduct of elections. The right to vote in the subjective sense is the right of a person to participate in elections, divided into active and passive suffrage. The constitutional foundations of active and passive suffrage are enshrined in Article 34 of the Constitution.<sup>18</sup> Article 34 Paragraph 1 ('Citizens who, on the day of election, have reached 18 years of age, shall have the electoral right') enshrines active suffrage, that is, the possibility for individuals to participate in elections of relevant public authorities. Paragraph 2 ('The right to stand for election shall be established by the Constitution of the Republic of Lithuania and by the election laws') enshrines the passive right to vote, i.e. the possibility for a person to stand for election to the relevant elected public authority in accordance with the procedure established by the Constitution and electoral laws. Paragraph 3 ('Citizens who are recognised incapable by a court shall not participate in elections') shall restrict the right to vote and stand as a candidate.<sup>19</sup> These rights of a person guaranteed by the Constitution – the right to vote (active suffrage) and the right to be elected (passive suffrage) – are important constitutional rights which are recognized and protected in the Republic of Lithuania.

In 2020, ordinary elections to the Seimas were to take place in the Republic of Lithuania, which, in accordance with Article 57 of the Constitution,<sup>20</sup> were due

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17 I. Pukanasytė, *Atstovaujamosios demokratijos institutai Lietuvos konstitucinė teisė*, (in:) Jarašiūnas, E. *et al.* (eds.), *Lietuvos konstitucinė teisė*, VĮ Registrų centras, Vilnius 2017, pp. 328–368.

18 The ruling of 29 March 2012 of the Constitutional Court of the Republic of Lithuania, *Valstybės žinios* 2012, No. 40–1973.

19 The ruling of 1 October 2008 of the Constitutional Court of the Republic of Lithuania, *Valstybės žinios* 2008, No. 114–4367.

20 Art. 57 of the Constitution of the Republic of Lithuania: 'Regular elections to the Seimas shall be held on the year of the expiration of the powers of the Members of Seimas on the second Sunday of October.'



to take place on the second Sunday of October.<sup>21</sup> Given the massive spread of the COVID-19 virus, the organization of the Seimas elections and the guarantee of political rights during these elections were not easy. In order to provide information on the implementation of the right to vote during the Seimas elections, it is necessary to provide some information on the electoral system of the Lithuanian Seimas.

Lithuania is a parliamentary republic which is characterized by certain features of the semi-presidential system. The right to legislate is exercised by a unicameral parliament (Seimas) of 141 members elected for a four-year term. Most of the executive power belongs to the government, which is headed by the prime minister. Seimas elections are held according to a mixed system: 71 members of the Seimas are elected in single-member constituencies according to a majority representation (majority) system, and the other 70 members, in one nationwide (multi-member) constituency, according to a proportional representation system. In single-member constituencies, if the voter turnout is more than 40%, a candidate must obtain an absolute majority of votes in order to be elected in the first round. If voter turnout is lower, it is necessary to collect at least 20% of the votes of all eligible voters. If no candidate is selected in the first round, a second round of elections is held, in which the two candidates who receive the most votes compete and win by collecting more votes, regardless of voter turnout. In a multi-member constituency, elections are considered to have taken place if the turnout is at least 25%. In order to be entitled to the distribution of mandates, the number of votes cast on the party list must exceed 5% and that of the coalition 7% of the election bar. Mandates are distributed to parties and coalitions that cross the electoral barrier and for which at least 60% of the votes are cast. The right to take part in the distribution of mandates is won by the parties whose lists of candidates receive over 5% of all votes cast. After an amendment to the Law on Elections to the Seimas, an electoral constituency was formed for the first time in 2020 for voters voting abroad<sup>22</sup>. The legal basis for the Seimas elections is the 1992 Constitution (last amended in 2019), the 1992 Law on Elections to the Seimas, the 2002 Law on the Central Electoral Commission, and decisions of the Central Electoral Commission.

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21 According to the doctrine of the Constitutional Court of the Republic of Lithuania: 'Under Paragraph 1 of Article 57 of the Constitution, a regular election to the Seimas is held in the year of the expiry of the powers of the members of the Seimas on the second Sunday of October, and, according to Paragraph 2 of the same article, a regular election to the Seimas following an early election to the Seimas is held at the time specified in the first paragraph of this article. Thus, Article 57 of the Constitution *expressis verbis* establishes a specific date for regular elections to the Seimas, i.e. one day for an election to the Seimas.' For more, see the ruling of 15 February 2019 of the Constitutional Court of the Republic of Lithuania, Valstybės žinios (Official Gazette) No. KT8-N2/2019, Register of Legal Acts, No. 2373.

22 In this election, 43,500 voters who were abroad at the time of the election registered to vote. For more, see Demokratiščių institucijų ir žmogaus teisių biuras, Lietuvos Respublikos Seimo rinkimai 2020 m. spalio 11 ir 25 d. ODIHR rinkimų ekspertų grupės ataskaita. Warsaw 2021, p. 4.

Members of the Seimas are elected by universal and equal suffrage, in a secret ballot, during direct, mixed-system elections.<sup>23</sup>

In order to analyse how voting rights were implemented during the 2020 Seimas elections, this article will further examine how the active and passive voting rights were implemented during these elections. Let us first analyse whether active suffrage was ensured.

The president announced the elections to the Seimas on 9 April 2020, and official preparations for the elections began from that date. As mentioned earlier, after the announcement of the election campaign, two special legal regimes operated in Lithuania – quarantine and a state of emergency. The quarantine was lifted on 17 June, while the state of emergency continued on election day. In view of this, a number of restrictions on the rights and freedoms of the citizen were introduced, but no decision was made to cancel the Seimas elections.

Following the experience of neighbouring countries in organizing elections (for example, presidential elections in Poland), and given that the organization of elections is a complex process especially during a pandemic, on 30 June 2020 the Seimas amended some norms of the Law on Elections to the Seimas in order to run elections during the pandemic in a clearer and easier manner and thus guarantee the right of citizens to vote. The following amendments can be distinguished, which have to be applied when a state or municipal level emergency is declared in all or part of the territory of the Republic of Lithuania, when the freedom of movement of persons is temporarily restricted, or when other special conditions to manage a situation are established:

- voters must be provided with the necessary protection at the polling station;
- by decision of the Central Electoral Commission, voting on election day in polling stations with more than 3,000 registered voters may take place in such a polling station if it is specially and additionally prepared and suitable for voting;
- due to the declared special situation, voters in self-isolation may vote at home by submitting a request to vote at home in the form established by the Central Electoral Commission;
- advance voting may also take place on the last Monday, Tuesday, Wednesday and Thursday before election day from 7 am to 8 pm.<sup>24</sup>

Thus, voters who came to the polls had to be provided with the necessary safeguards, and if necessary, additional polling stations had to be installed in larger constituencies in order to reduce overcrowding. Amendments to the Law on Elections

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23 Law on Elections to the Seimas, 9 July 1992, No I-2721, <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/10831a4018db11e5bfc0854048a4e288?jfwid=bkaxmnua> (accessed 13.06.2021).

24 *Ibidem*.



to the Seimas extended the duration of early elections from two to four days. Voters were able to express their will at one of 73 selected pre-voting locations, which could be found in municipal buildings and elsewhere, from the Monday to the Thursday before each round of elections. During the pre-election period, the voter could vote several times; on the day of the election, the last vote cast was counted.<sup>25</sup>

The procedure for voting at home was also adjusted. Until then, people over the age of 70, people with disabilities, people caring for those with disabilities, and people who are unable to enter polling stations on election day due to a medical condition had the right to vote at home. According to the amendments to the Law on Elections to the Seimas in 2020, people in self-isolation were also able to vote at home.<sup>26</sup>

It is important to mention that on 30 June 2020, an amendment to the Law on Elections to the Seimas was adopted, according to which the possibility of electronic voting for voters in self-isolation due to COVID-19 was established. Article 67 Paragraph 1 established that an electronic voting code may be sent by post to voters in self-isolation in accordance with the procedure established by the Central Electoral Commission, allowing the voter to vote on the Central Electoral Commission website. By establishing the possibility of electronic voting, the Seimas sought to encourage voter participation during the pandemic. According to the National Progress Strategy, the turnout of the Lithuanian population and confidence in the transparency of the policy and its implementation are some of the key features of a democratic state, but the turnout of Lithuanian voters was 17 percentage points lower than the OECD average.<sup>27</sup> Therefore, in order to encourage voter turnout, the Seimas adopted an amendment to the Law on Elections to the Seimas, which legally opened up the possibility of electronic voting. Such a sudden decision was criticized in the media, as it was adopted as a matter of urgency, a day before the end of the spring session of the Seimas and without consultation with the public and the Central Electoral Commission, which actually became responsible for implementing electronic voting.

It should be mentioned that the initiative for online voting in Lithuania started in 2006, when the Seimas adopted the concept of online voting. In 2009, 2010 and 2011, the Seimas voted on draft laws legitimizing this method of voting, but rejected

25 Demokratinių institucijų ir žmogaus teisių biuras, ODIHR rinkimų ekspertų grupės ataskaita, *op. cit.*, p. 9.

26 Lrytas. Rinkimai, kokių Lietuvoje nebuvo: tūkstančiai žmonių namuose sulauks 'kostiumuotų' svečių, balsuodami turės būti stebimi, <https://www.lrytas.lt/lietuvosdiena/aktualijos/2020/09/24/news/rinkimai-kokiu-lietuvoje-nebuvo-tukstanciai-zmoniu-namuose-sulauks-kostiumuotu-sveciu-balsuodami-tures-buti-stebimi-16452432/> (accessed 15.08.2021).

27 Lietuvos Respublikos Vyriausybės nutarimas 'Dėl 2021–2030 metų nacionalinio pažangos plano patvirtinimo', 16 September 2020, No. 998. Register of Legal Acts, Nr. 19293.

all of them.<sup>28</sup> Only the pandemic prompted the Seimas to take decisive action and legalize online voting.

With electronic voting approved by the Seimas, the Central Electoral Commission adopted a protocol decision on the Action Plan on the Implementation of Electronic Voting and the Description of the Procedure for Electronic Voting.<sup>29</sup> Although the provisions came into force immediately, the electronic voting procedure was not applied in the 2020 Seimas elections. It should be mentioned that the Lithuanian electoral system is designed for voting on printed paper ballots as a means of expressing the independent will of the voter, and there is no separate system where it would be possible to vote electronically by sending voters codes. Around the world, this method of voting is also called the Australian method, as it was first used in Australia in 1856 to hold elections in Victoria, South Australia and Tasmania.<sup>30</sup> Thus, although the legal basis for electronic voting was created by the Seimas, in order to ensure the security and reliability of elections and public confidence in democratic processes, electronic voting was not possible in the 2020 Seimas elections because there was too little time (only two and a half months) to prepare for such voting. The Central Electoral Commission hopes that, following a feasibility study on the electronic voting system, consultations with the public and other institutions, international public procurement procedures, independent audits and public testing, the possibility of electronic voting will be available in the next elections.<sup>31</sup>

The good administration of the 2020 Seimas elections was also confirmed by 'White Gloves' ('Baltosios pirštinės'), an independent election observation organization in Lithuania. Members of this organization observed the Seimas elections and established reports of possible violations of the electoral process. Of the 804 reports of possible election irregularities, only 13% were related to the COVID-19 pandemic. Such reports included, for example, members of electoral commissions or voters not wearing protective equipment or wearing it incorrectly; social distancing not being observed; long queues of voters not being coordinated; polling stations not being provided with all the necessary security measures; advance voting at home not being

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28 S. Valadkevičius, Balsavimo internetu įgyvendinimas ir elektroninės apylinkės. Geriausios užsienio praktikos ir taikymo Lietuvoje galimybės, <http://kurkl.lt/wp-content/uploads/2015/10/Balsavimo-internetu-%C4%AFgyvendinimo-ir-elektronini%C5%B3-apylinki%C5%B3-projektas.pdf> (accessed 15.08.2021).

29 Central Electoral Commission, Implementation of electronic voting, <https://www.vrk.lt/elektroninio-balsavimo-igyvendinimas> (accessed 15.08.2021).

30 V. Stancelis, Balsavimo ir balsų skaičiavimo įranga: nuo popierinio biuletenio iki balsavimo internetu. Istorija galimybės, problemos ir sprendimai, 'Parlamento Studijos' 2016, no. 20, <http://www.parlamentostudijos.lt/Nr20/files/88-111.pdf> (accessed 15.08.2021).

31 Kauno diena, VRK vadovė apie elektroninį balsavimą: šiems rinkimams daugiau ne negu taip, <https://kauno.diena.lt/naujienos/lietuva/politika/vrk-vadove-apie-elektronini-balsavima-siems-rinkimams-daugiau-ne-negu-taip-976603> (accessed 15.08.2021).

on schedule due to lack of preparedness for safeguards; and poor public awareness of opportunities to vote in self-isolation.<sup>32</sup>

## Conclusions

The short study in this article shows that two special legal regimes were introduced in Lithuania during the COVID-19 pandemic – the quarantine and disaster management regimes – and were introduced not by the parliament but by the government. Such a legal situation is criticized because, first, several special legal regimes cannot be in force in the state at the same time on the same legal basis, for example due to an outbreak of an epidemic, and second, the government could not restrict human rights and freedoms on such a large scale and for such a long time, only parliament. Assessing how the right to vote was exercised during the pandemic, the restrictions during the elections were proportionate with the aim of preventing the spread of coronavirus and protecting human health and life. Restrictions were essentially linked to additional measures designed to protect the health of those participating in the elections and to enable persons whose freedom of movement was restricted to vote. This did not affect the usual election deadlines (on the contrary, the advance voting was two days longer than during the 2016 Seimas elections), a secret ballot was ensured and people who were in isolation were given the right to vote at home. The pandemic prompted the Seimas to pass long-awaited amendments to the law that legalized electronic voting in the country.

## REFERENCES

- Ayala Corao, C., Challenges that the COVID-19 Pandemic Poses to the Rule of Law, Democracy, and Human Rights, Max Planck Institute for Comparative Public Law & International Law (MPIL) Research Paper No. 2020–23, <https://ssrn.com/abstract=3638158>.
- Birmontienė, T. and Miliuvienė J., Konstituciniai reikalavimai valstybės valdžios institucijoms reaguojant į pandemijos padiktuotus iššūkius Lietuvoje, (in:) L. Jakulevičienė and V. Sinkevičius (eds.), Lietuvos teisė 2020. Esminiai pokyčiai I dalis. COVID-19 pandemijos sprendimai: teisiniai, valdymo ir ekonominiai aspektai, Vilnius 2020, pp. 7–22.
- Birmontienė T. and Miliuvienė J., Pandemijos iššūkiai žmogaus teisėms ir laisvėms, (in:) L. Jakulevičienė and V. Sinkevičius (eds.), Lietuvos teisė 2020. Esminiai pokyčiai I dalis. COVID-19 pandemijos sprendimai: teisiniai, valdymo ir ekonominiai aspektai, Vilnius, 2020, pp. 47–65.
- Central Electoral Commission, Implementation of electronic voting <https://www.vrk.lt/elektroninio-balsavimo-igyvendinimas>.
- Constitution of the Republic of Lithuania, Valstybės žinios (Official Gazette) 1992, No. 33–1014.

32 Seimas election observation data of ‘White Gloves’, <https://www.baltosiospirstines.lt/apie/ataskaitos> (accessed 31.08.2021).

- Constitutional Court of the Republic of Lithuania, Ruling of 1 October 2008, Valstybės žinios (Official Gazette) 2008, No. 114–4367.
- Constitutional Court of the Republic of Lithuania, Ruling of 29 March 2012, Valstybės žinios (Official Gazette) 2012, No. 40–1973.
- Constitutional Court of the Republic of Lithuania, Ruling of 15 February 2019, Valstybės žinios (Official Gazette) No. KT8-N2/2019, Register of Legal Acts, No. 2373.
- Demokratiųjų institucijų ir žmogaus teisių biuras, Lietuvos Respublikos Seimo rinkimai 2020 m. spalio 11 ir 25 d. ODIHR rinkimų ekspertų grupės ataskaita, Warsaw 2021.
- European Union Agency for Fundamental Rights, Fundamental Rights Report 2021, <https://fra.europa.eu/en/publication/2021/fundamental-rights-report-2021>.
- Kauno diena, VRK vadovė apie elektroninį balsavimą: šiems rinkimams daugiau ne negu taip. <https://kauno.diena.lt/naujienos/lietuva/politika/vrk-vadove-apie-elektronini-balsavima-siems-rinkimams-daugiau-ne-negu-taip-976603c>.
- Law on Civil Protection, 15 December 1998, No VIII–971, <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.378978?jfwid=92zt7rthx>.
- Law on Elections to the Seimas, 9 July 1992, No I–2721, <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/10831a4018db11e5bfc0854048a4e288?jfwid=bkaxmnuu>.
- Law on the Prevention and Control of Communicable Diseases in Humans, 25 September 1996, No. I–1553. <https://e-seimas.lrs.lt/portal/legalActPrint/lt?jfwid=-0zrzend5&documentId=TAIS.373789&category=TAD>.
- Lietuvos Respublikos Vyriausybė nutarimas ‘Dėl valstybės lygio ekstremaliosios situacijos paskelbimo’, 26 February 2020, No-152, Register of Legal Acts, No. 4023.
- Lietuvos Respublikos Vyriausybė nutarimas ‘Dėl karantino Lietuvos Respublikos teritorijoje paskelbimo’, 14 March 2020, No-207, Register of Legal Acts, No. 5466.
- Lietuvos Respublikos Vyriausybės nutarimas ‘Dėl 2021–2030 metų nacionalinio pažangos plano patvirtinimo’, 16 September 2020, No-998, Register of Legal Acts, No. 19293.
- Lrytas. Rinkimai, kokių Lietuvoje nebuvo: tūkstančiai žmonių namuose sulauks „kostiumuotų“ svečių, balsuodami turės būti stebimi <https://www.lrytas.lt/lietuvsdiena/aktualijos/2020/09/24/news/rinkimai-kokiu-lietuvoje-nebuvo-tukstanciai-zmoniu-namuose-sulauks-kostiumuotu-sveciu-balsuodami-tures-buti-stebimi-16452432/>.
- Pukanasytė I., Atstovaujamosios demokratijos institutai Lietuvos konstitucinė teisė, (in:) Jarašiūnas, E. *et al.* (eds.), Lietuvos konstitucinė teisė, VĮ Registrų centras, Vilnius 2017. Vilnius 2017, pp. 328–368.
- Stancelis, V., Balsavimo ir balsų skaičiavimo įranga: nuo popierinio biuletenio iki balsavimo internetu. Istorija galimybės, problemos ir sprendimai, ‘Parlamento Studijos’ 2016, no. 20, <http://www.parlamentostudijos.lt/Nr20/files/88–111.pdf>.
- Teise.pro, Karantinas – ir mobilumui, ir žmogaus teisėms? <https://www.teise.pro/index.php/2020/05/01/karantinas-ir-mobilumui-ir-zmogaus-teisems/>.
- Vaičiaitis, V., Specialieji teisiniai režimai, ‘Teisė’ 2020, vol. 117, pp. 79–98.

Valadkevičius, S., Balsavimo internetu įgyvendinimas ir elektroninės apylinkės. Geriausias užsienio praktikos ir taikymo Lietuvoje galimybės, <http://kurkl.lt/wp-content/uploads/2015/10/Balsavimo-internetu-%C4%AFgyvendinimo-ir-elektronini%C5%B3-apylinki%C5%B3-projektas.pdf>.

White Gloves, Seimas election observation data, <https://www.baltosiospirstines.lt/apie/ataskaitos>.