

**Turība University**

**Karolis Kaklys**

**SYNOPSIS OF THE DOCTORAL THESIS**

**LEGAL REGULATION PROBLEMS OF LITHUANIAN  
LOCAL SELF-GOVERNMENT IN CONTEXT OF  
ENSURING POLITICAL MINORITY (OPPOSITION)  
RIGHTS**

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Advisor:

Professor Dr.iur.: ***Raimundas Kalesnykas***

Official reviewers:

Dr.iur.: ***Jānis Načisčionis, Turība University, Professor***

Dr.iur.: ***Algimantas Urmonas, Mykolas Romeris University, Professor***

Dr.iur.: ***Giedrius Nemeikšis, Kazimieras Simonavičius University, Assoc.***

***Professor***

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Chairperson of the doctoral council for \_\_\_\_\_ sciences:

Dr.iur.: ***Jānis Načisčionis***

Secretary of the doctoral council for \_\_\_\_\_ sciences:

Dr.iur.: ***Ingrīda Veikša***

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**The relevance of the topic.** The model of state governance is usually determined by the constitutions of the states. The Constitution of the Republic of Lithuania<sup>1</sup> devotes a separate section to local self-government and its management, which not only shows the importance of local self-government in the institutional structure of state authorities, but also ensures the constitutional protection of the rights granted to local self-government. There are sixty separate administrative units of the territory in Lithuania, which are guaranteed the right of self-government, which is implemented through municipal councils elected by secret ballot.

After the direct elections of mayors held for the first time in Lithuanian history on March 1<sup>st</sup>, 2015 in sixteen municipalities (Birštonas municipality; Druskininkai municipality: Ignalina district; Jonava district; Kaunas district; Lazdijai district; Marijampolė municipality; Neringa municipality; Pagėgiai municipality; Palanga municipality; Pasvalys district; Rietavas municipality; Šakiai municipality, Šalčininkai municipality, Vilkaviškis district, Vilnius district);<sup>2</sup> one political party or public political movement won an absolute majority in the elections. After the March 3<sup>rd</sup>, 2019 municipal council elections, the number of “one-party” municipalities increased to seventeen<sup>3</sup>, which further highlighted the importance of ensuring the minority (opposition) rights of municipal councils in municipalities.

In this context, it is important to note that after the restoration of the independence of the Republic of Lithuania (March 11<sup>th</sup>, 1990), in 2019, for the first time in the Republic of Lithuania, a situation arose when the absolute majority of the members of the council of one political party or public political movement would be elected in the municipal council of at least one of the five Lithuanian big cities (Vilnius, Kaunas, Klaipėda, Šauliai, Panevėžys). It should be noted that after, the March 3<sup>rd</sup>, 2019 elections of municipal councils and direct mayors in the second largest city in Lithuania - Kaunas, in general, only two lists of candidates entered the municipal council, with a ratio of 33 to 8, and in Šiauliai the public political movement led by the mayor won an absolute majority.

Although there is no precise, universally accepted definition of democracy<sup>4</sup>, democratic form of government means that all citizens have the right to participate in the governance of the country and is fundamentally different from a form of government in which such a right belongs to one class, exclusive group or autocrat. Even before the introduction of direct mayoral

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<sup>1</sup> Constitution of the Republic of Lithuania, (Lietuvos Respublikos Konstitucija), Official Gazette, 30.11.1992, No. 220, 33-1014.

<sup>2</sup> See data available on the official website of the Central Electoral Commission. Retrieved 04.10.2018 from: [http://www.vrk.lt/statiniai/puslapiai/2015\\_savivaldybiu\\_tarybu\\_rinkimai/output\\_lt/rezultatai\\_daugiamand\\_apygardo\\_se/rezultatai\\_daugiamand\\_apygardose1turas.html](http://www.vrk.lt/statiniai/puslapiai/2015_savivaldybiu_tarybu_rinkimai/output_lt/rezultatai_daugiamand_apygardo_se/rezultatai_daugiamand_apygardose1turas.html).

<sup>3</sup> See data available on the official website of the Central Electoral Commission. Retrieved 06.06.2019 from: <https://www.vrk.lt/2019-savivaldybiu-tarybu/rezultatai?srcUrl=/rinkimai/864/1/1506/rezultatai/lt/rezultataiTarNariaiMeraiSavivaldybese.html>.

<sup>4</sup> Kekic, L. (2007). The Economist Intelligence Units index of democracy. *The Economist*, p. 1-8. Retrieved 06.06.2019 from: [https://www.economist.com/media/pdf/democracy\\_index\\_2007\\_v3.pdf](https://www.economist.com/media/pdf/democracy_index_2007_v3.pdf).

elections A. Urmonas and A. Novikovas<sup>5</sup> noted, that "*one of the most important foundations of a democratic society is a multi-party system*", and made an assumption, that "*with the legalization of direct mayoral elections, oligarchic tendencies may develop in local government.*" As can be seen, in such a case a paradoxical situation may arise where, in the absence of sufficient protection of the minority (opposition) rights of municipal councils, difficult-to-control and autocratic manifestations of local government can be accessed. The presence and functional operation of a minority (opposition) in the municipal council is not only a normative phenomenon but also a necessary expression of democracy. In principle, for the minority (opposition) of the municipal council, the legislation gives two main responsibilities:

*First*, the minority of the municipal council (opposition) prevents the establishment of a one-party management style, curbs the arbitrariness of the dominant government represented in the municipal council, helps to maintain the constitutional model of local government;

*Second*, the minority of the municipal council (opposition) supervises the legality and fairness of the majority of the decisions made by the municipal council, recognizes the mistakes and shortcomings of the adopted public decisions and functions as an instrument for the prevention of violations of the rights granted to the municipality.

Recognition of the parliamentary opposition and the obligation to defend it in order to ensure pluralist democracy should be noted as one of the key elements of pluralist democracy<sup>6</sup>. The fact that ensuring the protection of the rights of the minority (opposition) in the municipal council is a necessary element of a pluralistic democracy has been emphasized by the Constitutional Court of the Republic of Lithuania<sup>7</sup>. The term pluralist democracy in the current jurisprudence of the Constitutional Court of the Republic of Lithuania is related not only to the diversity of opinions, but also to a broader analysis: in the political, ideological and cultural context<sup>8</sup>.

In European countries that promote the rule of law and long-standing constitutional values, the influence of democracy in the adoption and implementation of public decisions at the local government level is constantly debated, that is, the right of self-government to safeguard the interests of local people and communities<sup>9</sup>. It should be noted that the decisions taken by municipal institutions must comply with the requirements of transparency, integrity and

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<sup>5</sup> Urmonas, A., Novikovas, A. (2011). The peculiarities of the implementation and incorporation of the principles of European charter of local self-government in Lithuanian local government and National legal systems. *Jurisprudence*, No. 18 (3), p. 1019-1034. (ISSN 1392-6195).

<sup>6</sup> Ragauskas, P. (2016). The reflections of the principle of democracy in the jurisprudence of the Constitutional court of Lithuanian Republic. *Law Institute of Lithuania*, p. 1-86. (ISBN online 978-9986-704-38-6).

<sup>7</sup> The ruling of the Constitutional Court of the Republic of Lithuania of 26.11.1993 and 25.01.2001.

<sup>8</sup> Ibid.

<sup>9</sup> Spurga S. (2012). *Democratisation and Civil Society in National States and the EU: Democratisation of Central and Eastern Europe*, (in Lithuanian). Monograph, Mykolas Romeris University, p. 3-299. (ISBN 978-9955-19-444-6).

openness, such decisions must not create conditions conducive to conflicts of interest and prevalence of corruption in the municipalities. The requirement to develop an anti-corruption environment is mandatory for the entire public sector, however, the commitments of municipal institutions and its managers in their implementation remain formal. This can be seen through the performance practice of ethics and anti-corruption commissions in municipalities, which, unfortunately, does not contribute to the formation of a high compliance culture for the local self-government<sup>10</sup>. It is not for nothing that local self-government (with its municipal institutions) has been identified in Lithuania for the last five years as having the highest probability of corruption<sup>11</sup>. According to the 2020 data<sup>12</sup> of the Corruption Map Survey of the Lithuanian Secret Investigation Service, it has been established, that the most common forms of corruption in Lithuania are:

- 1) Nepotism (74%);
- 2) Politicization<sup>13</sup> (66%) - patronage of members of political parties;
- 3) Adoption of favorable legislation for the benefit of individual groups (58%).

According to the Lithuanian Secret Investigation Service anti-corruption environment assessment, the average intensity of nepotism risk in Lithuanian municipal administrations is as high as 18%; every fifth employee of the municipality is related by kinship; every fourth employee of the municipal administration is a member of a political party; every ninth employee of Lithuanian municipal enterprises and institutions belongs to a political party; 12 percent winners of municipal public procurement that provided support to municipalities accounted for one third of the value of all public procurement, that is, 483.3 million Euros<sup>14</sup>.

Intensive scientific discussions are still taking place in Lithuania about the optimal model of local self-government that would be acceptable at the level of implementation of municipal representative and executive power. It should be noted that the model of local self-government should not satisfy the interests of individual political groups, but should be focused on the communal (public) needs of all local residents. Such a model should be based on the principle of democracy as a result of the rule of law, recognized and declared by the Constitution.

In the current legal system of Lithuania, municipal institutions are considered to be one of the forms of expression of civil society, when the state power is decentralized to a certain

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<sup>10</sup> Kalesnykas, R. (2020). The development of anti-corruption environment in Lithuanian public sector: best practice and experience. *Acta Prosperitatis*, No. 11, p 92-116. Doi: [10.37804/1691-6077-2020-11-92-115](https://doi.org/10.37804/1691-6077-2020-11-92-115).

<sup>11</sup> Report of the Investigation of the Corruption Map of the Secret Investigation Service, (2020), p. 85. Retrieved 04.03.2021 from: <https://www.stt.lt/analitine-antikorupecine-zvalgyba/lietuvos-korupecijos-zemelapis/7437>.

<sup>12</sup> Ibid, p. 74.

<sup>13</sup> See data available on the official website of the Office of Secret Investigations. Retrieved 04.03.2021 from: <https://www.stt.lt/analitine-antikorupecine-zvalgyba/kiti-tyrimai/politizacijos-rizikos-stebesena-savivaldoje/7547>.

<sup>14</sup> Data available on the official website of the Office of Secret Investigations. Retrieved 04.03.2021 from: <https://www.stt.lt/naujienos/7464/stt-veikloje-demesys-korupecijos-rizikoms-savivaldoje:2688>.

extent and the right to resolve many important issues of public administration is granted to the citizens themselves<sup>15</sup>. European Charter of Local Self - Government<sup>16</sup> obliges Member States to comply with the basic requirements guaranteeing the political, administrative and financial independence of local authorities. It stipulates that self-government institutions are the subsidiary basis for the organization of any democratic order. However, according to L. Pratchetto, “The categories (*independence of local authorities*) and (*local democracy*) are not identical. The independence of local authorities is a necessary but not sufficient condition for local democracy to flourish.<sup>17</sup>”

Although in law the system of checks and balances is usually associated with the management of the state rather than municipalities and the institutional structure of their government differs substantially<sup>18</sup>, however, the essential legal provisions of the system of checks and balances are very similar between municipal councils and the Seimas of the Republic of Lithuania as collegial authorities in which political decisions (legal acts) are made. During the empirical research in the dissertation it is important to pay attention to a certain analogy between the municipal council and the Seimas of the Republic of Lithuania, especially on the issues of separation of powers - the procedure for their internal formation, determination of powers and competencies between the majority and the minority.

It must be borne in mind that the power in the lowest territorial administrative units is closest to the person and directly influences the law-making policy and administrative decisions relevant to the local population. In this dissertation, the author presents a non-orthodox approach to the State structure based on many years of practical experience in the field of local self-government.

In the context of the still ongoing pandemic situation of COVID-19, research interest on local self-governance inputs to participate in – and to manage emergency situation has become even more relevant in Lithuania. This might be an evidence, that when decisions made by municipal institutions directly restrict the rights of individuals (for example: freedom of movement, the right to conduct certain types of business, right to have a good administration etc.). There are reasonable doubts whether the administrative decisions made at the level of self-government do not exceed the limits of competence, therefore there is a need to study the

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<sup>15</sup> 119 Article of the Constitution of the Republic of Lithuania. Official Gazette, 30.11.1992, No. 220, 33-1014; 4 Article of the Law on Local Self-Government of the Republic of Lithuania. Official Gazette, 20.07.1994 No. 55-1049.

<sup>16</sup> European Charter of Local Self-Government. Strasbourg, 1985, No. 122 // Official Gazette. 1999, No.82-2418.

<sup>17</sup> Pratchett, L. (2004). Local Autonomy, Local Democracy and the ‘New Localism’. *Political Studies*, No. 52 (2), p. 358–375. Doi: <https://doi.org/10.1111/j.1467-9248.2004.00484.x>.

<sup>18</sup> Novikovas A. (2005). The Nature and the Social Mission of Local Government in the Society. *Jurisprudence*, No. 77(69); p. 58–64. (ISSN 1392-6195).

situation of local self-government in the State, the relationship of local self-government with central government and the interaction of local self-government institutions between themselves.

The above-mentioned circumstances determine the need to rely in scientific work on the principle of separation of powers enshrined in the Constitution of the Republic of Lithuania, the semantic analysis of which allows to clearly define the scope and limits of empirical research in the chosen topic through:

1) *Interaction of authorities*, by selecting the elements of the legal regulation mechanism (constitutional - administrative) for research and establishing the existing administrative - legal and constitutional - legal relations between separate public authority entities at the territorial level. These legal relations include the co-operation of the authorities, the division of competences, powers and responsibilities and the co-ordination of common statutory actions, the functioning of the “checks and balances” system by ensuring a balance of interaction between the authorities;

2) *Separation of functions of the authorities*, that is, directing research not only according to the division of powers of the authorities for the implementation of public functions into the branches of state administration, but also with the determination of the procedure for their own internal formation, legal status, powers and responsibilities, ensuring independence<sup>19</sup>. Following this logic and in order to achieve a democratic form of governance at the local government level, separation of powers is necessary not only between the representative and executive branches of the municipality, but also between the majority and the minority of the municipal council. For example, in the Statute of the Seimas<sup>20</sup> legal guarantees for the activities of the opposition are established – a certain number of seats and positions in committees, the status of the leader of the opposition, the initiation of agendas and commissions and so on. Systematically assessing the provisions of the Law on Local Self-Government of the Republic of Lithuania<sup>21</sup>, it can be seen that the obligation to form a Control Committee, Anti-Corruption and Ethics Commissions in each municipality, the opposition of which is delegated by the opposition of the municipal council, is one of the ways provided by the legislator to ensure pluralistic democracy in self-government and the rights of political minorities (oppositions) in municipal councils, on which the balance of local government depends.

J. Madison, one of the main founders of the doctrine of the division of powers, also held the position that the constitutional provisions defining the powers of each individual government

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<sup>19</sup> Jarašiūnas, E. (2001). Separation of powers - a principle of the organization and operation of a democratic state. *Lithuanian Constitutional Law*, Publishing Center of the Lithuanian University of Law, Vilnius.

<sup>20</sup> Statute of the Seimas of the Republic of Lithuania, (Lietuvos Respublikos Seimo statutas). Official Gazette, 25.02.1994, No. 15-249.

<sup>21</sup> Law on Local Self-Government of the Republic of Lithuania, (Lietuvos Respublikos vietos savivaldos įstatymas). Official Gazette, 20.07.1994 No. 55-1049.

were not sufficient. He stated<sup>22</sup> that a mechanism is needed to guarantee self-regulatory control by public authorities. “*J. Madison’s goal was to protect freedom and minority interests by creating a system in which central governments remain independent but at the same time control and counterbalance each other. Based on the experience of the United States, J. Madison saw the greatest threat to (democracy) in the power of the legislature (decisions)*”<sup>23</sup>.

The dissertation formulates a **problematic situation** when the insufficient guarantee of the minority (opposition) rights of the municipal council causes violations of the rule of law and the development of autocratic governance tendencies in the local government system of the Republic of Lithuania. Although democratic institutions of local self-government are formally enshrined in Lithuanian legislation, however, different demographic situation, different emerging municipal management traditions, different work regulations of municipal councils, poor control of decisions and administrative actions of municipal councils, incorrect treatment and application of statutory legal norms creates conditions for the formation of situations where democratic values, the principles of law declared by international organizations and the protection of civil rights and freedoms in the fields of activity of municipalities are endangered. In the research work, the problematic situation includes the analysis of such debatable issues as:

- a) Uncertainty about the all-round (full) realization of the rights of the minority (opposition) of the municipal council;
- b) Formal performance of administrative supervision of municipal activities;
- c) Clear, open and transparent interaction of the minority (opposition) of the municipal council with other municipal institutions, participating in municipal management processes and forming bodies supervising (controlling) the decisions made by municipal institutions and their implementation.

**The scientific novelty of the PhD thesis.** With the emergence of liberal democratic lawyers such as Petras Leonas (1864–1938) and Mykolas Römeris (1880–1945) in interwar Lithuania, the democratic concept of local self-government in Lithuania began to be formed scientifically. Political figure and scientist Petras Leonas, who was mainly interested in the problems of law, philosophy of law, political economy, sociology, and ethics, also analyzed the issues of local municipalities in his works. Petras Leonas and Mykolas Römeris (1880–1945) were the most famous scientists of the First Republic of Lithuania who wrote about the problems

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<sup>22</sup> Madison, J., Hamilton, A. (1788). The Structure of the Government Must Furnish the Proper Checks and Balances Between the Different Departments. *The Federalist Papers*, No. 51-60, New York. Available in Library of Congress: <https://guides.loc.gov/federalist-papers/text-51-60>.

<sup>23</sup> Griškevič, L. (2008). Theory of separation of powers by J. Madison. *The Law*, No. 66 (2), p. 154-161. (ISSN 1392–1274).



of local municipalities<sup>24</sup> and to this day the ideas of Petras Leonas and Mykolas Römeris represent Lithuania's political thought on local government issues.

After the restoration of Lithuania's independence on March 11<sup>th</sup>, 1990 there are a number of works by well-known Lithuanian scientists on separate elements of local government in the Republic of Lithuania (for example: Šileikis, E.<sup>25</sup>; Kūris, E.<sup>26</sup>; Bakaveckas, A.<sup>27</sup>; Kulakauskas, A.; Urmonas, A.; Novikovas, A.<sup>28</sup>; Ragauskas, P.<sup>29</sup>; Mažylis, L.<sup>30</sup>; Žilinskas, G.<sup>31</sup>; Grigienė, K.<sup>32</sup>; Kondratienė, V.<sup>33</sup>; Čiupaila, R.<sup>34</sup>; Burbulytė-Tsiskarishvili, G.<sup>35</sup>; Raišienė,<sup>36</sup> A. G.; Astrauskas, A.<sup>37</sup> and others), however, the level of scientific research in Lithuanian science on the problems of legal regulation and political nature affecting the principles of democracy and, in particular, the rights of political minorities in municipal councils in the local government of the Republic of Lithuania is low. The analysis of the listed scientific sources relevant to the empirical research shows that the chosen topic of the dissertation is analyzed in a fragmentary manner, does not reflect the complex process of local government functioning through equal participation of the minority (opposition) in municipal affairs.

It should be noted that in the foreign literature one can find research papers that examine the relationship between municipalities in the context of the division of powers, however, works

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<sup>24</sup> Leonas, P., (1923). Regarding municipal reform. *Savivaldybė*, No. 7; Römeris, M. (1922). Local municipalities. *Law*, No. 3.

<sup>25</sup> Šileikis, E. (2014). Constitutional foundations of local self - government. *Bulletin of the Constitutional Court of the Republic of Lithuania*, Nr. 4 (36), p. 208-264. (ISSN 1822-4520).

<sup>26</sup> Kūris, E. (1990). Self-government, democracy, law. *Žinija & Lietuvos teisininkų draugija*, Vilnius.

<sup>27</sup> Bakaveckas, A. (2005). The problems of Development of legal base of local self-government. *Public policy and administration*, No. 12 (109), p. 104-110. (ISSN online 2029-2872 / ISSN print 1648-2603).

<sup>28</sup> Urmonas, A., Novikovas, A. (2011). The peculiarities of the implementation and incorporation of the principles of European charter of local self-government in Lithuanian local government and National legal systems. *Jurisprudence*, No. 18 (3), p. 1019-1034. (ISSN 1392-6195).

<sup>29</sup> Ragauskas, P. (2016). The reflections of the principle of democracy in the jurisprudence of the Constitutional court of Lithuanian Republic. *Law Institute of Lithuania*, p. 1-86. (ISBN online 978-9986-704-38-6).

<sup>30</sup> Mažylis, L., Leščauskaitė, V. (2015). Direct election of mayors in Lithuania: Ongoing debates and fresh experiences. *Versus aureus*, Vytautas Magnus university press, No. 17, p. 38-56. (ISSN 2029-0225).

<sup>31</sup> Žilinskas, G. (2010). Constitutional Aspects of Development of Local Governance in the Republic of Lithuania. *Public Policy and Administration*, No. 33, p. 57-68. (ISSN online 2029-2872 / ISSN print 1648-2603).

<sup>32</sup> Grigienė, K. (2011). Constitutional frameworks for regional self-government in Lithuania and central and eastern Europe: Do the reforms of the regions determine the need of constitutional amendments?. *Societal studies*, No. 3 (4), p. 1479-1496. (ISSN online 2029-2244 / ISSN print 2029-2236).

<sup>33</sup> Kondratienė, V. (2008). The mechanism of legal adjustment of the system of local self-governance. *Jurisprudence*, No. 3 (105), p. 60-66. (ISSN 1392-6195).

<sup>34</sup> Čiupaila R. (2011). Possible inconsistencies between the legal acts of the Republic of Lithuania and the policy pursued by state institutions with the requirements of the European Charter of Local Self-Government. *Association of Lithuanian Municipalities*, Study – Vilnius.

<sup>35</sup> Burbulytė - Tsiskarishvili, G., and others. (2018). Changes of Local Functions and Local Powers in Lithuania 1994-2016 . *Public policy and administration*, Vol. 17, No. 3/ 2018, p. 399-420. Doi: <https://doi.org/10.5755/j01.ppaa.17.3.21955>.

<sup>36</sup> Raišienė, A. G. (2010). Conceptualization of inter-organizational partnership structural model in local-government. *Public policy and administration*, No. 34., p. 107-121. (ISSN online 2029-2872 / ISSN print 1648-2603).

<sup>37</sup> Astrauskas, A. (2014). Local Self-Government in Lithuania in 1990-2013: Changes of the Competence of Municipalities. *Public Policy and administration*, Vol. 13, No. 2, p. 187-208. Doi: <https://doi.org/10.13165/VPA-14-13-2-01>.

on such topics are abundant and not new. For example, In 1958, F. Pike examined the relationship between the municipality and the Spanish American colonial administration in a system of “checks and balances”<sup>38</sup>, however, it should be noted that in the days of colonialism, the accession of the territories of other countries and nations, in contrast to the present times, was not characterized by democracy and the aspiration to implement the principle of the rule of law.

The scientific novelty of the dissertation research is based on the fact that the significance of the realization of the minority (opposition) rights of municipal councils in the management of the municipality is examined from a systematic point of view: at the beginning, a general analysis of the functioning of local government in the Republic of Lithuania in the context of public administration is presented, and its modern understanding is based on the synergy of philosophy, politics and law, the interaction between state and municipal institutions is examined later, which allows for a holistic transition to the assessment of the internal legal situation of the local government itself, that is, public decision-making and implementation processes at the lowest level of municipal governance. The need to realize the rights of the minority (opposition) in municipal councils should be focused on creating a system of democratic governance at the local public level that would effectively help citizens to exercise their rights and legitimate interests in any organization with an institutionalized structure.

**The practical significance of the PhD thesis.** The thesis is relevant on both theoretical and practical aspects. After April 19<sup>th</sup>, 2021 decision of the Constitutional Court of the Republic of Lithuania<sup>39</sup>, which recognized that the direct election of mayors is contrary to the current wording of the country's basic law, that is, the legal regulation of the elections and powers of municipal mayors is in conflict with the Constitution. However, such a decision of the Constitutional Court will officially come into force only after a couple of years, that is, on May 3rd, 2023, in order not to legally question the powers of the current directly elected mayors, including the mayor's relationship with the municipal council, there is a need to legitimize or abandon direct mayoral elections altogether.

The status of the municipal council and the role of the mayor and the municipal administration in the future will depend on the formulation of Article 119 of the Constitution of the Republic of Lithuania. If the Seimas of the Republic of Lithuania fails to agree on the

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<sup>38</sup> Pike, F. (1958). The Municipality and the System of Checks and Balances in Spanish American Colonial Administration. *The Americas*, No. 15 (2); Jordan, P. and Popescu, C. (2002). The Europe of the Regions: Strategies and Perspectives in the View of the Forthcoming Enlargement of the European Union (Part II on Bulgaria, Latvia, Lithuania, Malta, Romania, Slovakia and Turkey). Study on behalf of the Committee of the Regions of the European Union.

<sup>39</sup> The ruling of the Constitutional Court of the Republic of Lithuania of 19.04.2021: Regarding the compliance of the provisions of the Law on Local Self-Government of the Republic of Lithuania and the Law on Elections to Municipal Councils of the Republic of Lithuania related to the elections and powers of municipal mayors with the Constitution of the Republic of Lithuania. Case No. KT59-N5/2021.

amendments to the Constitution of the Republic of Lithuania within the next year and a half, the old order will be returned to in the spring of 2023, when elected municipal councils, in turn, will elect mayors. And in order to change the Constitution, it is necessary that more than two-thirds of the members of the Seimas vote for it twice with an interval of at least three months, that is, at least 94 out of 141 members of the Seimas.

The results of the empirical research conducted in the dissertation can be directly useful in the practical legislative process, which will help to increase democracy in municipal governance, creating a balance of legal regulation between the majority and minority of the municipal council (opposition). The conducted research and published results, scientific insights and recommendations may be of interest to both legislators and researchers in developing a long-term or creating a new strategic model of local self-government in Lithuania, the search for the optimal version of which is currently underway.

**The object of the research.** The object of the research is the influence of social-political and social-administrative factors on the process of legal regulation of local self-government in forming the standard of protection of the minority (opposition) rights of the municipal council in the Lithuanian local self-government system.

**The aim and objectives of the research.** The aim of the dissertation is to develop the protection of the minority (opposition) rights of municipal councils as a complementary mechanism of local self-government (regulation) by ensuring the balanced functioning of the system of “checks and balances” between the majority and the minority of municipal councils in municipalities.

Theoretical analysis of municipal law as a separate legal institute of public law and practical implementation of legal regulation of municipal activities in determining the legal position of the municipal council minority (opposition) in the local government system create preconditions to properly substantiate and not deviate from the chosen research object. On the other hand, detailed empirical research on the protection of the minority (opposition) rights of municipal councils and their practical implementation helps to increase the understanding of the role of the minority (opposition) in municipal councils in the activities of municipal institutions, also allows to justify the prevailing provisions regarding the insufficient involvement of the minority (opposition) in municipal councils together with the majority of municipal councils to participate in the public decision-making and implementation process on equal terms, ensuring the protection of local people's rights and freedoms and public interest.

In order to achieve the set aim, the following objectives are to be addressed in the dissertation thesis:

1) *To analyze* the factors of the social environment affecting the changes in the formation of the local government institute and the problems of legal regulation in the Lithuanian national law;

2) *To evaluate* the effectiveness of the local government legal acts of the Republic of Lithuania regulating the rights of the minority (opposition) of municipal councils to participate in the management of public affairs on equal terms together with the majority of the municipal council;

3) *To study* the legal status and place of local government entities in the system of institutional structure of state governments, including the relationship of local government with the central executive government and the interaction between the institutions of the same municipalities;

4) Based on empirical research data *to determine* (identify) gaps in legal regulation and/or legal uncertainty, which limits the possibilities of implementation and protection of minority (opposition) rights of municipal councils and causes uncertainty of the system of checks and balances between the majority and minority of municipal councils in local government of the Republic of Lithuania.

5) *To draw some research-based solutions* for issues identified related to these analyzed questions of better protection of minority rights of municipal council for Lithuanian legislator in order to improve national regulatory mechanism.

Taking into account the topic, goals and objectives of the dissertation, both empirical and theoretical **methods of the research** in the social sciences were chosen:

*The method of document analysis* is the stage of the research focused on the normative content of the research phenomenon, in order to assess the problematic issues of the functioning of the national municipal law institute, which create preconditions restricting the proper realization of the minority (opposition) rights and their legal protection. The application of this method helped to better understand the content of the research object in the context of social processes related to the objective implementation of the minority (opposition) powers of the municipal council. This method has been used to collect and research information sources, such as national legislation, European Union and international legislation, rulings of the Constitutional Court of the Republic of Lithuania, current case law, related research, official statistics, etc.

*Systematic, comparative and logical analysis* was applied to obtain the approved results of the analytical research data and their bases (interpretation, prediction, practical recommendations). The complex use of analysis methods allowed to study the synergy of municipal legal norms and the practice of national and international courts in applying these norms in the aspect of ensuring the protection of minority (opposition) rights of municipal

councils. The juxtaposition of the phenomena of the research object, the connection of the elements and the gradually deepening analysis and synthesis by systematizing the obtained research data, evaluating and comparing them with each other, revealed the relations of uniformity, difference, identity and similarity of the researched phenomena.

The specifics of the research object also obliged to choose qualitative research methods, as the solution of the problem formulated in the work requires the analysis of many variables, and some of them are difficult to identify by theoretical means alone. In order for the empirical research not to become only a data collection tool, but to actually serve to improve the regulatory processes of municipal management, the second chapter of the dissertation was chosen to combine elements of quantitative methodology and qualitative approach. Analyzing the problematic aspects of the legal regulation of local government in Lithuania related to the realization of the rights provided for the minority (opposition) of the municipal council in the Law on Local Self-Government of the Republic of Lithuania and other legal acts, an *interview method* was also used, which sought to identify as precisely as possible the problems of the realization of the rights of political minorities (opposition) in the whole Lithuanian municipality. It is the *interview method* that has been chosen to ensure the interaction of the researcher and the respondent, which enables to obtain the widest and most in-depth information possible in identifying practical problems and also to collect the detailed data needed to solve the identified problems.

*The observation method* was systematically applied as a method of collecting primary information, which in interaction with other research methods helped to better understand and record the phenomena related to the practical and theoretical aspects of the implementation of minority (opposition) rights in the municipal council. It should be noted that the author of the dissertation has accumulated many years of practical experience in the field of legal regulation of local self-government of the Republic of Lithuania, since 2011 to date, he has been elected a member of the municipal council for three consecutive terms. *The generalization method* was used to summarize the collected and analyzed research data and to formulate conclusions and suggestions.

**The hypothesis:** In the dissertation it was chosen to formulate a *purposeful*<sup>40</sup> hypothesis, aimed at proving that the protection of the minority (opposition) rights of municipal councils will be effectively ensured by the comprehensive improvement of the existing legal institution of

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<sup>40</sup> Charles, C. M. (1998) Introduction to Educational Research. Third Edition. *Alma littera*, p. 1-416. (ISBN-0-8013-1872-6); Kardelis, K. (2002). The module summary is prepared according to the textbook: Research methodology and methods. 2nd revised and supplemented edition, p. 18. Retrieved 04.04.2020 from: <http://verslas09.files.wordpress.com/2010/01/mtp.pdf>.

local government in the Republic of Lithuania, the processes of autocratic governance will also be avoided and an effective “checks and balances” mechanism will be created at the level of local government in Lithuania.

**The approbation of the research results.** The main statements, theoretical conclusions and practical recommendations set out in the dissertation have been published in five peer-reviewed scientific articles, and the results of the dissertation research have been presented at six scientific - practical conferences. The author of the dissertation has also published articles on the topic of the dissertation and on the largest Lithuanian media portals, participated as a speaker in various press conferences, including in the Seimas of the Republic of Lithuania. A detailed list with references to the sources is provided below.

**List of scientific publications related to the doctoral thesis:**

1. Kaklys, K. (2021). *Approbation of the Results Obtained During the Interview: Research of Possibilities for Exercising the Rights of Political Oppositions in Lithuanian Self-Government* // Socrates, 3 (21), p. 127-138. Indexed in the Erih + database. Doi: [10.25143/socr.21.2021.3.127-138](https://doi.org/10.25143/socr.21.2021.3.127-138).
2. Kaklys, K. (2021). *Problematic Aspects of Lithuanian Legal Regulation of Impeachment Procedure to a Member of Local Municipal Council* // Acta Prosperitatis, 12, p. 72-91, ISSN 1691-6077, Turība University Press, Latvia. Doi: [10.37804/1691-6077-2021-12-24-37](https://doi.org/10.37804/1691-6077-2021-12-24-37).
3. Kaklys, K. (2020). *Search for Checks and balances System at Local - Government Level of the Republic of Lithuania* // Insights, pp. 210-217, ISSN 2669-0330 (online), Utena University Press, Lithuania. Reference: [https://www.utenos-kolegija.lt/upload/file\\_manager/Visuomenei/%c4%ae%c5%bevalg%2020-Nr1/20%20K.%20Kaklys\\_SEARCH%20FOR%20CHECKS%20AND%20BALANCES%20SYSTEM%20AT%20THE%20LOCAL%e2%80%93%20GOVERNMENT%20LEVEL%20OF%20THE%20REPUBLIC%20OF%20LITHUANIA.pdf](https://www.utenos-kolegija.lt/upload/file_manager/Visuomenei/%c4%ae%c5%bevalg%2020-Nr1/20%20K.%20Kaklys_SEARCH%20FOR%20CHECKS%20AND%20BALANCES%20SYSTEM%20AT%20THE%20LOCAL%e2%80%93%20GOVERNMENT%20LEVEL%20OF%20THE%20REPUBLIC%20OF%20LITHUANIA.pdf).
4. Kaklys, K. (2020). *Analysis of Lithuanian Regional Democracy According to the Articles of European Charter of Local Self-Government* // Acta Prosperitatis, 11, p. 72-91, ISSN 1691-6077. Turība University Press, Latvia. Doi: [10.37804/1691-6077-2020-11-72-91](https://doi.org/10.37804/1691-6077-2020-11-72-91).
5. Kaklys, K. (2019). *The Problematicity of Legal Regulations of Local Self - Governance in the Republic of Lithuania in the Context of Ensuring Minority Rights and Democracy* // Social Research, 42 (1), p. 41-49, ISSN 2351-6712 (online). Vilnius University Press, Lithuania. Indexed in the Erih + database. Doi: [10.21277/st.v42i1.263](https://doi.org/10.21277/st.v42i1.263).

### **List of scientific reports related to the doctoral thesis:**

1. 13th of May, 2021 - Participated in the International scientific conference *Relevant issues of environment management 2021* organized by Kaunas Forestry and Environmental Engineering University of Applied Sciences and presented the scientific report on the topic: *Legislative Solutions for Ensuring Political Minority Rights at Local - Self Government of Lithuania*. Certificate registration No. IC-5 87.
2. 29th of April, 2021 - Participated in the International conference *Problems and Challenges of Contemporary Law in the Context of International Law 2021* organized by Kazimieras Simonavičius University and presented the scientific report on the topic: *Problems of Realization of the Rights of Political Minorities (Oppositions) in the Municipal Councils of the Republic of Lithuania*. Certificate registration No. TF-223002434.
3. 22th of April, 2021 - Participated in the XXII International scientific conference *Artificial intelligence and green thinking* organized by Turība University and presented the scientific report on the topic: *Problematic Aspects of Lithuanian Legal Regulation of Impeachment Procedure to a Member of Local Municipal Council*. Certificate registration No.2021-422.
4. 21th of April, 2020 - Participated in the XXI International scientific conference *Sustainable Economy, Latvian story* organized by Turība University and presented the scientific report on the topic: *Analysis of Lithuanian Regional Democracy According to the Articles of European Charter of Local Self-Government*. Certificate registration No. 2020-028.
5. 28th of November, 2019 - Participated in the International scientific conference *Circular economy for competitive Regions* organized by Vilnius University Šiauliai Academy and presented the scientific report on the topic: *“Importance of Self- Government Council Minority Rights and its Impact on Municipal Governance”*. Certificate registration No. RP-8-670.
6. 16th of May, 2019 - Participated in the *International Scientific Conference of Young Researchers* organized by Vilnius University Šiauliai Academy and presented the scientific report on the topic: *“Challenges for democracy in self-government”*. The scientific report was named as the best scientific report in section of *Opportunities for the public sector* and given a special diploma confirming this. Certificate registration No. RP-8-277.

### **Other activities and articles published in the media on the dissertation topic:**

1. The article on the topic: “*Karolis Kaklys: How did the construction of Vijūnėlė manor reveal sensitive problems for the whole of Lithuania?*” was published on the online news portal - [www.tiesos.lt](http://www.tiesos.lt) on 30th of July, 2020. Reference: <http://www.tiesos.lt/index.php/tinklarastis/straipsnis/karolis-kaklys-kaip-vijuneles-dvaro-statybos-atskleide-visai-lietuvai-opias>.
2. The article on the topic: “*Karolis Kaklys: Let's see that the "Polish" strengthening of self-government does not backfire*” was published on the online news portal - [www.15min.lt](http://www.15min.lt) on 27th of August, 2019. Reference: <https://www.15min.lt/naujiena/aktualu/nuomones/karolis-kaklys-ziurekime-kad-lenkiskas-savivaldos-stiprinimas-neatsisuktuantru-galu-18-1193930>.
3. The article on the topic: “*Karolis Kaklys: Is democratic self-government possible without a minority?*” was published on the online news portal - [www.delfi.lt](http://www.delfi.lt) on 2nd of February, 2019. Reference: <https://www.delfi.lt/news/ringas/politics/karolis-kaklys-ar-imanoma-demokratiska-savivalda-be-mazumos.d?id=80216849>.
4. The article on the topic: “*Karolis Kaklys: One-party system threats to self-government*” was published on the online news portal - [www.15min.lt](http://www.15min.lt) on 14th of April, 2015. Reference: <https://www.15min.lt/naujiena/aktualu/nuomones/karolis-kaklys-vienpartines-sistemas-gresmes-savivaldai-18-496867>.
5. The article on the topic: “*Karolis Kaklys: Druskininkai municipality is a unique example - how power can be concentrated in one hand*” was published on the online news portal - [www.tiesos.lt](http://www.tiesos.lt) on 3rd of July, 2013. Reference: <http://www.tiesos.lt/index.php/tinklarastis/straipsnis/druskininkai-unikalus-pavyzdys-kaip-galima-sutelkti-valdzia-vienose-rankose>.
6. Participated as a speaker in Press conference on the topic: “*Legal nihilism and the sunset of democracy in Druskininkai municipality*” in Seimas of Republic of Lithuania. Event date was 4th of April, 2013. Reference: <https://sc.bns.lt/view/item/143836>.

**The structure of the PhD thesis** was determined by the object of the research selected.

The thesis is constituted by the four parts:

a) Introduction, where the research carried out is reviewed, the relevance of the topic is emphasised, the methods applied as well as other criteria that characterise the research of the thesis are described;

b) Explanatory expository and research part divided into three chapters with the main statements (interim conclusions) and suggestions where the object of the research selected is comprehensively analysed in detail;



c) Summarised results of the research where the conclusions and suggestions are provided;

d) List of references used in order to prepare the thesis.

Three chapters constitute the explanatory expository part of the thesis (part b):

The first chapter of the dissertation is of a theoretical analytical nature, in which the general issues of local government in the Republic of Lithuania are analyzed. Taking into account the problems and goals raised in the scientific work, this chapter aims to reveal the essential features of Lithuanian local government, the situation of local government in the context of the State, interaction with State institutions, competence and legal environment, which later (in the second chapter of the dissertation) will help to better understand and delve deeper into the field in which the political minorities of municipal councils operate.

The second chapter of the dissertation is of a practical, exploratory nature. This chapter presents an empirical study that consists of two parts: interview research (qualitative) and documentary research (quantitative). In order for the research not to become only a data collection tool, but to actually serve to improve the municipal management processes, the specifics of the research object oblige to choose both quantitative and qualitative research methods, whereas the solution of the problem formulated in the work requires the analysis of many variables, some of which are difficult to identify by theoretical-documentary means alone. Thus, with the help of qualitative and quantitative data analysis, this chapter seeks to reveal the most specific problematic aspects of the legal regulation of local self-government in the Republic of Lithuania related to the implementation of the rights provided for the minority (opposition) of the municipal council in the Law on Local Self-Government and other legal acts. It can be mentioned that in order to get the greatest possible practical benefit from the research, as many as thirty respondents were interviewed, all of whom are current or former members of municipal councils.

The third chapter of the dissertation is of a general, strategic, perspective and innovative nature. This chapter summarizes the results of the empirical research, presents solutions to the problems of different sections, specific suggestions on how to apply the results to improve the national legal framework to ensure the rights of local political minority, including the democratic governance model in the local government of the Republic of Lithuania. Taking into account the problematic aspects of the legal regulation of local self-government of the Republic of Lithuania identified by the empirical research conducted in the second chapter of the dissertation, related to the realization and protection of the rights provided for the minority (opposition) of the

municipal council in the Constitution of the Republic of Lithuania<sup>41</sup>, the Law on Local Self-Government of the Republic of Lithuania<sup>42</sup>, the Law on Administrative Supervision of Municipalities of the Republic of Lithuania<sup>43</sup>, the Law on Temporary Direct Management in the Municipality of the Republic of Lithuania<sup>44</sup> and other legal acts – this chapter presents, in different sections, innovative solutions to the problems identified. In order for the results of the empirical study to be of benefit to the improvement of the national legal framework and to maximize practical applicability, the aim of this chapter is to submit as specific proposals as possible to the legislator, which would ensure the protection of the rights of local government political minorities (oppositions) at the local government level of the Republic of Lithuania.

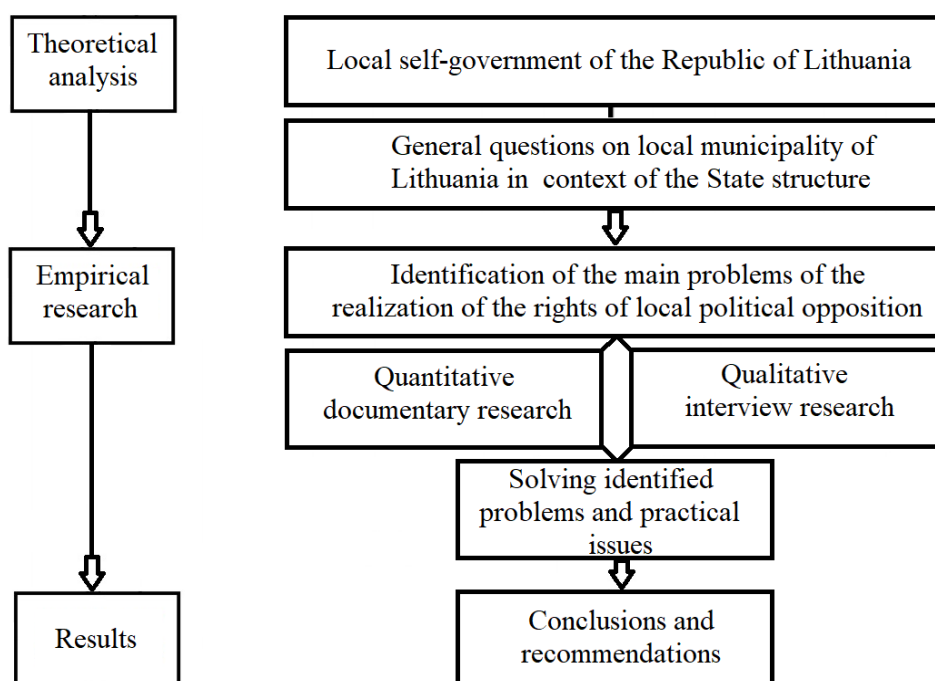


Figure No. 1<sup>45</sup>. The logical structure of the dissertation

**A thesis submitted for defense, conclusions, and proposals.** A detailed analysis of both the theoretical content and practical implementation of the Lithuanian Institute of Local Self-Government has shown that the legal relations between municipalities are only partially properly

<sup>41</sup> Constitution of the Republic of Lithuania, (Lietuvos Respublikos Konstitucija), Official Gazette, 30.11.1992, No. 220, 33-1014.

<sup>42</sup> Law on Local Self-Government of the Republic of Lithuania, (Lietuvos Respublikos vietos savivaldos įstatymas). Official Gazette, 20.07.1994 No. 55-1049.

<sup>43</sup> Law on Municipal Administrative Supervision of the Republic of Lithuania, (Lietuvos Respublikos Administracinės priežiūros įstatymas). Official Gazette, 03.06.1998, No. 51-1392.

<sup>44</sup> Law of the Republic of Lithuania on Temporary Direct Management in the Municipality, (Lietuvos Respublikos Tiesioginio valdymo savivaldybės teritorijoje įstatymas). Official Gazette, 12.04.1995, No. I-830.

<sup>45</sup> The figure is compiled by the author.

defined and regulated in the national legal system, and the application of the norms of national law in some municipalities of the country remains formal and is not sufficiently effective to the extent necessary to ensure the protection and functioning (activities) of the minority (opposition) rights of the municipal council. The legal acts (laws) regulating the activities of municipalities remain rather laconic, only partially detailing the rights of the minority (opposition) of municipal councils, their scope and the mechanism of realization based on the principle of “checks and balances”, therefore, the abuse of the right of the majority of municipal councils in municipalities creates favorable conditions for the formation of manifestations of autocratic governance.

Taking into account the results of the research, their analysis and conclusions, it is recommended to improve the regulation of legal relations of the municipalities comprising the Lithuanian Institute of Local Self-Government:

I.) Ensuring the effective implementation of the protection of the rights of the minority (opposition) of the municipal council provided for in the Law on Local Self-Government of the Republic of Lithuania;

II.) Improving the procedure for early termination of the term of office (impeachment) of a member of a municipal council, so that all members of municipal councils or mayors who have broken the oath would answer equally before the law, regardless of whether they are in the majority or in the minority of the municipal council (opposition);

III.) Streamlining administrative oversight of municipal activities based on the principles of the rule of law, legality and proportionality, rather than on the basis of agreements between political parties and individual interests.

I. Conclusions and suggestions regarding the provision of positions guaranteed to the opposition by the municipal council in the Law on Local Self-Government of the Republic of Lithuania.

1. Conclusion: As there are sixty separate administrative units (municipalities) of the territory in Lithuania with different demographic, economic and political situation, different work regulations of municipal councils, composition of municipal councils, therefore, they have different traditions of local governance and decision-making. The insufficient definition of the rights of the minority (opposition) in the municipal council, which ensures the opportunities for the participation of the minority (opposition) in the management of municipal public affairs, creates an environment for the formation of autocratic tendencies in municipal governance. Poor control over the decisions taken by municipal councils and the actions of the administration, as

well as a flawed legal framework, create conditions for the formation of situations where there is a real threat to democratic values and the protection of individual rights and freedoms.

In order to effectively ensure the implementation of the rights guaranteed to the minority (opposition) by the municipal council in the Law on Local Self-Government of the Republic of Lithuania and to maintain the balance of the constitutional model of public power, it is proposed:

1. Suggestion: The requirement of the legislator to approve the minority (opposition) candidacy for the members or chairmen of the Control Committee proposed by the majority of the municipal council is excessive in terms of ensuring the minority (opposition) rights of the municipal council. The existing gap in the legal regulation is to be solved by eliminating the need for the approval of the majority of the municipal council for the representatives appointed by the minority (opposition) of the municipal council to the Control Committee from the Law on Local Self-Government of the Republic of Lithuania, leaving it to the minority (the opposition) to decide which candidate is best placed to hold the statutory posts on the Control Committee, *specifically*, by reformulating Part 3 of Article 14 of the Law on Local Self-Government of the Republic of Lithuania as follows:

"The chairmen and vice-chairmen of committees, other than the Control Committee, shall be appointed by the committees from among the members of the committee on the proposal of the mayor. The chairman of the control committee shall be appointed from among the members of the committee by the opposition of the municipal council in writing, signed by more than half of all members of the opposition of the municipal council and publicly served on the chairman of the municipal council meeting, the chairman of the Control Committee shall then be deemed to take up his duties without the additional approval of the majority of the municipal council. When the opposition appoints the chairman of the Control Committee in writing, the votes of the members of the municipal council elected to the municipal council with the majority list or lists shall not be counted. The vice-chairman of the Control Committee is appointed by the Municipal Council from among the members of the Committee on the proposal of the Mayor. If the opposition of the municipal council does not appoint the chairman of the Control Committee within two months from the date of convening the first meeting of the newly elected municipal council or from the date of taking the oath of office of the directly elected mayor, or appoints a member of the municipal council who does not comply with the requirements set out in Article 15<sup>1</sup> of this Law, or if no opposition of the municipal council has been announced, the chairman of the Control Committee shall be appointed by the municipal council from among its members on the proposal of the mayor. The chairman of the committee, on the proposal of the mayor, loses his powers prematurely by a decision of the committee (except for the Control Committee) if he does not meet the requirements set out in Article 15<sup>1</sup> of this Law. The chairman of the

Control Committee on the grounds set out in this paragraph shall lose his powers before the term, on the proposal of the mayor by a decision of the municipal council, and if the chairman of the Control Committee was appointed by the opposition of the municipal council, – if he is revoked in writing by the opposition, signed by more than half of all members of the municipal council and served on the chairman of the next municipal council meeting. If at the next meeting of the municipal council the opposition of the municipal council does not revoke in writing its appointed chairman of the Control Committee and does not appoint another member of the municipal council or appoints a member of the municipal council who does not meet the requirements of Article 15<sup>1</sup> of this Law, the decision on the loss of the powers of the Chairman of the Control Committee and the appointment of a new Chairman of the Control Committee on the proposal of the mayor shall be made by the municipal council, however, this does not deprive the opposition of the right to subsequently remove the chairman of the Control Committee approved by the mayor's proposal."

2. Suggestion: To nominate (approve) the candidates for the chairmen of the Ethics and Anti-Corruption Committees by a written proposal of the minority (opposition) of the municipal council, signed by more than half of all members of the minority (opposition) of the municipal council without additional approval of the majority of the council, *specifically*, by reformulating Part 1 of Article 15 of the Law on Local Self-Government of the Republic of Lithuania as follows:

“The Municipal Council shall establish an Ethics Commission and an Anti-Corruption Commission for the term of office. These commissions are formed in accordance with the principle of proportional representation of the majority and minority of the municipal council. The composition of the commissions, maintaining the principle of proportional representation of the majority and minority of the municipal council, must be changed no later than within 2 months after the change of the majority and minority of the municipal council. The chairman of the Ethics Commission and the Anti-Corruption Commission is appointed by the opposition of the municipal council from among the members of these commissions - members of the municipal council - signed in writing by more than half of all members of the municipal council opposition and publicly served on the chairman of the municipal council meeting, then the chairmen of the Ethics Commission and the Anti-Corruption Commission shall be deemed to take up their duties without the additional approval of the majority of the municipal council. When the opposition appoints the chairmen of the Ethics and Anti-Corruption Commissions in writing, the votes of the members of the municipal council elected to the municipal council with the majority list or lists shall not be counted. The vice-chairmen of these commissions are appointed by the municipal council from among the members of these commissions - members

of the municipal council - on the proposal of the mayor. If the opposition of the municipal council does not appoint the chairmen of the Ethics Commission and the Anti-Corruption Commission within two months from the date of convening the first meeting of the newly elected municipal council or from the date of taking the oath of office of the directly elected mayor or appoint members of the municipal council who do not meet the requirements set out in Article 15<sup>1</sup> of this Law, or if the opposition of the municipal council has not been announced, the chairmen of the ethics commission and the anti-corruption commission shall be appointed by the municipal council on the proposal of the mayor from among the members of these commissions - members of the municipal council, however, this does not deprive the opposition of the right to later remove the chairmen of the Ethics Commission and the Anti-Corruption Commission approved by the mayor's proposal. The duties of the executive secretaries of the commissions shall be performed by civil servants appointed by the director of the municipal administration, and these functions shall be entered in their job description.”

3. Conclusion: The uncertainty of Part 2 of Article 2 of the Law on Temporary Direct Management in the Territory of the Republic of Lithuania creates preconditions for the majority of the municipal council to abuse the majority right, to eliminate the minority (opposition) of the municipal council from positions guaranteed by the Law on Local Self-Government (i.e. Ethics Commission, Anti-Corruption Commission, Control Committee) and not to receive any consequences for it.

3. Suggestion: To establish the mandatory introduction of direct management in the Law of the Republic of Lithuania on Temporary Direct Management in the Territory of the Municipality and in the event that the Control Committee, the Ethics Commission and/or the Anti-Corruption Commission are not fully formed within the time period specified in the Law on Local Self-Government of the Republic of Lithuania, and specifically by reformulating Part 2 of Article 2 of the Law on Temporary Direct Management in the Territory of the Republic of Lithuania as follows:

“Article 2. Basis and duration of introduction of direct management in the territory of the municipality

2. Direct management in the territory of a municipality may be introduced by a resolution of the Seimas of the Republic of Lithuania if:

1) The acts or omissions of the municipal council endanger the constitutional order of the state or the integrity of the territory;

2) The municipal council does not appoint the deputy mayor(s), the director of the municipal administration, the deputy director(s) of the municipal administration within the time

specified in the Law on Local Self-Government or does not fully form the Control Committee, Ethics or Anti-Corruption Commissions;

- 3) No meetings of the municipal council have been held for 6 consecutive months;
- 4) The Central Electoral Commission of the Republic of Lithuania declared the results of the re-elections to the municipal council invalid;
- 5) The municipal council may not exercise its powers due to circumstances related to the introduction of a state of emergency or martial law in the territory of the municipality;
- 6) The director of the municipal administration does not perform the functions specified in the Law on the Military Status of the Republic of Lithuania or performs them regardless of the needs of the armed forces and the municipal council, upon receipt of a proposal to dismiss the director of the municipal administration from the subjects specified in the Law on the State of War, does not dismiss him.”

## II. Conclusions and suggestions on amendments to the term of office of a member of a municipal council before the term (impeachment institute).

4. Conclusion: The institute of deprivation of the mandate of a member of a municipal council or the mayor (impeachment institute) is not directly enshrined in the Lithuanian Constitution, therefore local politicians who have broken the oath do not face constitutional responsibility and subsequently have no negative consequences to run for elective positions again, what obviously significantly affects the prevention of breaking the oath.

4. So, a *specific suggestion* to amend Section X (Local Self-Government and Governance) of the Constitution of the Republic of Lithuania by adding a new article, that" In the event of a gross violation of the Constitution or a breach of the oath by a member of a municipal council and/or the mayor, as well as if it becomes clear that a person has committed a criminal offense, impeachment procedure shall be instituted in accordance with the law".

5. Conclusion: the procedure of losing the mandate of a member of a local municipal council (or the mayor) in Lithuania is very poorly regulated by Law on Local Self-Government; in some cases it is even unconstitutional, when the decision of the local municipal council is placed higher than the Conclusion of the Supreme Administrative Court.

5. Suggestion: the approval of the conclusion (decisions)of the Supreme Administrative Court of Lithuania in the municipal council should be refused, because it is a manifestly excessive requirement, which reduces the power to enforce court decisions, exceeds the competence of the municipal council and finally contradicts the constitutional principle of separation of powers. Moreover, it creates the conditions for political influence to avoid

responsibility for the gross breaking of an oath. Thus, the specific suggestion to amend Part 3 of Article 25 of the Law on Local Self-Government of the Republic of Lithuania by reformulating it as follows:

"A member of a municipal council shall lose his powers before the term in accordance with the procedure established by this Law if the Supreme Administrative Court of Lithuania submits a conclusion that a member of the municipal council and/or mayor has broken his oath and/or fails to exercise powers under this or other laws."

6. Conclusion: It is difficult and sometimes even impossible to initiate impeachment proceedings for a member of the municipal council (or a mayor) who belongs to majority and has broken the oath. Practical makings to complete impeachment for majority politician of the municipal council are very complicated and there are only theoretical possibilities to do that.

6. Suggestion: In order to ensure equal responsibility of all members of the municipal council for breaking the oath, it is necessary to create a special legal provisions (mechanism) to minority of the of the municipal council for the initiation of impeachment proceedings against majority of the municipal council. Thus, the specific suggestion to amend Article 25-1 of the Law on Local Self-Government of the Republic of Lithuania by reformulating it as follows:

"1. The procedure for deprivation of the powers of a member of a municipal council or a member of a municipal council by a decision of the municipal council shall be applied by the municipal council to the members of the municipal council or a member of the municipal council - the mayor, in respect of their actions contrary to the Constitution and laws, performed as a member of the municipal council or the mayor of the municipal council, in order to resolve the issue of liability of such persons.

2. At least 1/3 of the members of the municipal council, or the opposition of the municipal council in writing signed by at least half of all members of the opposition of the municipal council, have the right to submit to the municipal council the procedure for deprivation of the powers of a member of the municipal council or a member of the municipal council.

3. The submission of the procedure for deprivation of authority of a member of a municipal council or a member of a municipal council - the mayor, is possible when at least one of the following grounds exists:

- 1) He broke his oath;
- 2) He does not exercise the powers conferred on him by this or other laws.

4. The submission to initiate the procedure for deprivation of authority of a member of a municipal council or a member of a municipal council - the mayor, must be set out in writing and signed by all persons forming at least 1/3 of the group of members of the municipal council or by



a letter of opposition from the municipal council signed by at least half of all members of the opposition of the municipal council. The submission must be submitted to the municipal council no later than within one month from the date of clarification of at least one of the grounds specified in Part 3 of this Article.

5. The submission for initiation of the procedure for deprivation of authority of a member of the council or a member of the municipal council – the mayor, shall specify the specific person, proposals to initiate the procedure on at least one of the grounds specified in Part 3 of this Article, the arguments, evidence and sources supporting these proposals.

6. Upon receipt of the submission, to initiate the procedure for deprivation of the authority of a member of the municipal council or a member of the municipal council – the mayor, the municipal council, at the next meeting of the municipal council, but not later than within one month from the day of receipt of the submission, shall make a motivated decision to form a commission to investigate the submitted facts and set a term by which the commission must submit a conclusion. The Commission shall be composed of representatives of all the political groups in accordance with the principle of proportionality. The Commission shall include an equal number of delegated representatives of all factions of the members of the municipal council and groups of members of the municipal council if they consist of at least three members of the municipal council.

If the majority of the municipal council refuses to make a decision to form a commission to investigate the submitted facts, then such decision must be motivated and may be appealed directly to the Supreme Administrative Court of Lithuania. A complaint may be submitted to the court by a representative of the Government of the Republic of Lithuania and a member(s) of the municipal council, which the court must examine no later than within ten working days.

7. The municipal council, after considering the conclusion submitted by the commission, makes one of the following decisions:

1) To apply to the Supreme Administrative Court of Lithuania with a request to submit a conclusion whether a member of the municipal council or a member of the municipal council - the mayor, has broken the oath and/or has not exercised the powers specified in this and other laws;

2) There is no basis for applying the procedure for deprivation of the authority of a member of a municipal council or a member of a municipal council – the mayor.

7.1. If the commission concludes that a member of the municipal council or a member of the municipal council - the mayor, has broken the oath and/or has not exercised the powers specified in this and other laws (specified in the application), then the deliberation of the municipal council is not necessary, and the commission itself must apply directly to the Supreme

Administrative Court of Lithuania, by submitting a request to this court not later than within 6 months from the date of clarification of at least one of the grounds set forth in Part 3 of this Article and appointing the member(s) of the commission to represent the commission in court.

8. The municipal council, having decided to apply to the Supreme Administrative Court of Lithuania, shall submit a request to this court not later than within 6 months from the date of clarification of at least one of the grounds specified in Part 3 of this Article and appoint a member(s), who will represent the municipal council in court in the examination of this application.

9. If the Supreme Administrative Court of Lithuania concludes that a member of the municipal council or a member of the municipal council - the mayor has not broken the oath and/or duly exercised the powers provided for in this and other laws, the procedure for deprivation of the powers of the member of the municipal council or a member of the municipal council - the mayor, shall be terminated.

10. If the Supreme Administrative Court of Lithuania concludes that a member of the municipal council or a member of the municipal council - the mayor has broken the oath and/or has not exercised the powers provided for in this and other laws, then the member of the municipal council or a member of the municipal council - the mayor is considered to have lost his powers.”

### III. Conclusions and suggestions on the improvement of the administrative supervision of the municipalities of the Republic of Lithuania

7. Conclusion: Due to the pre-political selectivity and gaps in the legal acts regulating the activities of municipalities, the administrative supervision of municipal activities in Lithuania is implemented differently, as a result of which the principles of the rule of law, democracy and respect for human rights and the state are often ignored, and specifically: in some municipalities, practical situations arise when by-laws issued by the local government create such legal regulation that contradicts Lithuanian law.

7. Suggestion: In order to ensure impartial and rule-of-law administrative supervision of the activities of municipalities, it is expedient to envisage an active, rather than passive, role of the representative of the Government of the Republic of Lithuania in supervising the compliance of the activities of municipalities with the provisions of local self-government enshrined in the Constitution and the constitutional segment of the division of powers. Also to change the procedure for appointing a representative of the Government of the Republic of Lithuania by establishing that representatives of the Government shall be appointed through a public competition and not on the basis of political trust, thus, the specific suggestion to amend Articles

2, 4 and 10 of the Law on Administrative Supervision of Municipalities of the Republic of Lithuania by reformulating them as follows:

“Article 2. Representatives of the Government

1. A representative of the Government is a non-political public official appointed by public competition, performing administrative supervision of the activities of municipalities, that is, supervising whether municipalities comply with the Constitution and laws or implement Government resolutions.

2. A representative of the Government acts on behalf of the Government and is subordinate to and accountable to the Government.

3. Upon the recommendation of the Prime Minister of the Republic of Lithuania, another representative of the Government appointed by the Government may replace the representative of the Government or hold the office of a representative of the Government when a representative of the Government has not been appointed.

Article 4. Appointment of government representatives

The Government is organizing a public competition to fill five seats of the Government Representatives, one Government Representative each:

- 1) In Vilnius and Alytus counties;
- 2) In Kaunas and Marijampolė counties;
- 3) In Panevėžys and Utena counties;
- 4) In Klaipėda and Tauragė counties;
- 5) In Šiauliai and Telšiai counties.

Article 10. Termination of the powers of a representative of the Government

1. The powers of a representative of the Government shall end when:

- 1) The term of office expires;
- 2) He resigns;
- 3) The representative is convicted by a court;
- 4) He dies;

5) He is in serious breach of his duties. The Labor Code of the Republic of Lithuania shall apply *mutatis mutandis* in determining whether a serious violation of work duties has been committed;

6) He does not comply with the requirements set out in Part 1 of Article 3 of this Law or does not comply with the restrictions referred to in Part 1 of Article 5, or does not comply with the requirements set out in Part 3 of Article 6;

~~7) he loses the trust of the Government.~~

2. In the cases specified in Paragraph 1 of this Article, except for Item 4 of Paragraph 1 of this Article, the decision regarding the dismissal of a representative of the Government shall be made by the Government on the proposal of the Prime Minister.

3. With the consent of the representative of the Government, in the cases specified in Items 1 and 2 of Part 1 of this Article, the representative of the Government shall hold office until a new representative of the Government is appointed, but for no longer than 3 months.

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