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# Alternative Report

*prepared for the  
United Nations Human Rights Committee*

*on the occasion of its review of  
Lithuania's Third Periodic Report under the*

*International Covenant  
on  
Civil and Political Rights*

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## ABOUT HUMAN RIGHTS MONITORING INSTITUTE

The Human Rights Monitoring Institute (HRMI) is a Lithuania-based non-governmental organization which aims to promote an open democratic society through implementation of human rights and freedoms.

Strategic goal of HRMI is consolidation in Lithuania of a culture respectful of human rights by:

- Raising awareness of human rights violations, their causes and consequences;
- Encouraging Lithuanians to exercise their human rights and to assist in defending those rights;
- Integrating civil society monitoring of government performance in protection of human rights into political discourse;
- Stimulating public discussion and dialogue between civil society and State institutions on human rights concerns;
- Motivating State institutions and officials to bring about tangible improvements in legislation, programs and services, intended to ensure and protect human rights;
- Increasing government accountability in policies and practices affecting human rights.

HRMI focuses its efforts on civil and political rights. HRMI carries out research, prepares conclusions and recommendations, introduces the results of research and recommendations to the general public and State institutions, initiates strategic litigation, and presents alternative reports to international human rights bodies, implements awareness-raising and educational campaigns.

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## BACKGROUND AND INTRODUCTION

1. Lithuania acceded to the International Covenant on Civil and Political Rights (ICCPR) and its First Optional Protocol on 12 March 1991. The Convention and the First Optional Protocol came into force for Lithuania on 20 February 1992. The First Optional Protocol recognized the competence of the Human Rights Committee to accept individual communications against Lithuania.
2. Lithuania acceded to the Second Optional Protocol to the ICCPR aiming at the abolition of the death penalty on 8 September 2000. The Protocol entered into force for Lithuania on 27 March 2002.
3. Lithuania submitted its initial report under Article 40 of the ICCPR in 1996. It was considered by the Committee at its 1634th and 1635th meetings, on 30 October 1997, and Concluding Observations were adopted at the 1643rd meeting, held on 6 November 1997.
4. Lithuania's second periodic report was submitted to the Committee in 2003. It was considered by the Committee at its 2181st and 2182nd meetings, on 24 and 25 March 2004, and Concluding Observations were adopted at the 2192nd meeting, held on 1 April 2004.
5. Lithuania's third periodic report submitted in 2010, is presently before the Committee for consideration. The third periodic report covers the period from 24-25 September 2004 to 1 September 2009.
6. The evaluation of the reporting period shows that the trend of deterioration of the human rights situation has persisted since the accession to the European Union in 2004. During the reporting period HRMI has recorded flagrant violations of human rights. Lithuania is characterized by a low level of human rights awareness among decision-makers, public servants, judiciary, media and population, in general. The state has yet to develop an efficient institutional and legal framework for the protection of human rights in Lithuania.
7. The Resolution of the international conference on *The Feasibility of Establishing a National Human Rights Institution in Lithuania* held in Vilnius in March 2008 stated that the importance of human rights implementation is not given enough focus in the formulation of the political agenda in Lithuania, and consequently problems related to human rights, including infringements of those human rights - right to freedom of expression, right to respect for private life, right to fair trial and prohibition of

discrimination – which are essential for the effective functioning of democracy, do not appear to decrease.

8. Analysis of the programmes of the political parties for the Parliamentary elections in 2008 showed that Lithuanian political parties understand the protection of human rights in an extremely narrow sense: this protection is usually associated with the operation of the legal system, law enforcement institutions, and the courts in reinstating infringed rights. Party programmes failed to address serious problems such as the need for strengthening of the system of institutional protection of human rights so that it would cover not only the retroactive work of law enforcement institutions and courts with the infringements of human rights but also the proactive expert work that would be instrumental in developing a rational and effective national human rights policy.

9. The Resolution of the international conference called for the establishment of the National Human Rights Institution as recommended by a number of international agencies and bodies as in Lithuania there exists no human rights institution that could monitor the implementation of international commitments on the national level, analyse the human rights situation, examine legislation, identify problems related to the protection of human rights, propose solutions, coordinate cooperation among national, regional and international institutions and perform other analytical, educational and organisational work.

9. This Report does address implementation of all of the rights included in the ICCPR. Instead, the Report provides additional information about the implementation of the certain Committee's recommendations, and highlights problems related to selected Articles of the ICCPR. Information on implementation of other Articles can be found in Annex 2, Annex 3 and Annex 4.

## PART I - IMPLEMENTATION OF HUMAN RIGHTS COMMITTEE'S RECOMMENDATIONS

### 1.1. Recommendation Nr. 7

*7. ... The Committee is also concerned that in cases of alleged threat to the State, the implementation of the decision to remove a foreigner may not be suspended prior to consideration of an appeal, which may have the effect of denying that individual a remedy under article 2.*

*The State party is requested to ensure that counter-terrorism measures, whether taken in connection with Security Council resolution 1373 (2001) or otherwise, are in full conformity with the Covenant. In particular, it should ensure absolute protection for all individuals, without exception, against refoulement to countries where they risk violation of their rights under article 7.*

According to the Article 128.2.1 of *Law on the Legal Status of Aliens*<sup>1</sup>: “The implementation of the decision to expel an alien from the Republic of Lithuania shall be suspended if the decision regarding the expulsion of the alien from the Republic of Lithuania is appealed against in court, except in cases where the alien must be expelled due to a threat he constitutes to national security or public policy”. The provision was not amended to satisfy Committee’s recommendation, as a result is still allows the expulsion of alien prior to consideration of an appeal in cases of alleged threat to national security and public policy, what is incompatible with the right for individual remedy provided by ICCPR Article 2.

### 1.2. Recommendation Nr. 8

*8. While welcoming the adoption of the Programme for Roma Integration into Lithuanian Society and the oral information provided by the delegation on the achievements of the first phase of the Programme, the Committee continues to be concerned about the social and economic situation of the Roma minority and its impact on the full enjoyment of their rights under the Covenant. It notes that the Roma continue to suffer from discrimination, poverty and unemployment, and play no part in the public life of the State party (arts. 26 and 27).*

*The State party should provide the Committee with an assessment of the results of the first phase of the Programme, including detailed information on its outcome and achievements and the extent to which it has improved the social and economic conditions of the Roma minority. The Committee also*

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<sup>1</sup> *Law on the Legal Status of Aliens*. Available in English at [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=356478](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=356478);

*encourages the State party to take this assessment into account in designing and implementing the second phase of the Programme.*

Independent evaluation of the results achieved within the *Programme for the Integration of Roma People into Lithuanian Society 2000-2004*<sup>2</sup> showed the lack of institutional coordination in the implementation of the Programme, which resulted in the following flaws:

- integration efforts in individual fields remained inconsistent and did not complement each other,
- the experience of programme implementation was not summed up and no impact assessment was conducted,
- priorities were not set, while the continuity of actions taken during the programme implementation was not ensured.

Programme implementation revealed that responsible State structures lacked administrative capacity and political import in ensuring the coordination of Roma integration. Another crucial impediment is the absence of a clear-cut concept and the definition of long-term undertakings. This resulted from the lack of both, political will and social responsibility.

No marked results have been achieved in training the organisational capacity of the Roma. After the Restoration of Lithuanian Independence, about 20 Roma organisations were founded in Lithuanian, but now most of them are inactive.

In overall, Roma continue to suffer from problems related to poverty, low educational attainment, large-scale unemployment and social exclusion.

On the most challenging problem to be resolved is housing. The *Programme for the Integration of Roma People into Lithuanian Society 2000-2004* mentioned the poor housing situation of the Roma, but it proposed no solutions and ultimately had no impact on Roma housing situation in Lithuania. Although *Programme for the Integration of Roma People into Lithuanian Society 2008-2010*<sup>3</sup> recognizes Roma housing problem, it does not include particular measures to solve it.

2008-2010 Programme envisages the collection of information on Roma housing conditions; calls for a qualitative analysis of the legal regulations pertaining to Roma housing and

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<sup>2</sup> See Annex 1, *Roma: Situation Assessment*, Human Rights Monitoring Institute, 2005, Vilnius.

<sup>3</sup> It took a few years for the government to approve a programme intended for continuation of the 2000-2004 Programme. See, *Programme for the Integration of Roma People into Lithuanian Society 2008-2010*. Available in Lithuanian at [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=317530&p\\_query=&p\\_tr2=](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=317530&p_query=&p_tr2=);

living conditions; and a feasibility study regarding opportunities for the Roma to acquire housing and improve their living situation. No public information on the progress of the Programme is available.

The issue of Roma housing quality is most evident in the Kirtimai settlement in Vilnius, housing the largest numbers of Roma. The settlement is located on state-owned land; therefore, Roma dwellings constructed in the settlement are considered illegal. Residents cannot register and legitimise their houses. All of them are registered under a single address (Dariaus ir Girėno str. 185).

In Kirtimai, dwellings do not meet standards in terms of heating, outdoor toilets, water pumps and residents have limited access to public transportation. The Kirtimai settlement was equipped with basic amenities such as water, electricity and waste collection in 2001, and further – perhaps final – developments were carried out in early 2004.

The future of Kirtimai compound remains vague. During last years, municipal politicians repeatedly called for the forceful relocation of Roma from Kirtimai to Šalčininkai District or settling the Roma in caravans or special social housing, however, no programme for solving the housing issue of the Roma residing in Kirtimai compound was adopted.<sup>4</sup>

A chapter on Roma housing in the 2005 report “Roma: Situation Assessment” did not lose its relevance (see Annex 1). The report expressed doubts as to whether social housing would constitute a desirable and realistic alternative to the present housing situation of Roma living in Lithuania. Many Roma officially have no permanent place of residence, as they are not allowed declaring residency at the place where he/she actually live and, therefore, they are not entitled to apply for social housing provided by the municipality. Furthermore, there are instances of Roma families vacating social housing due to their inability to pay rent. The cost of housing – even social housing – in Vilnius is higher than the cost of living in Kirtimai settlement. Majority of Roma are jobless.

The year 2008 saw the adoption of the *Programme for the Integration of Roma People into Lithuanian Society 2008–2010*<sup>5</sup>, which was drafted in 2005. The content of the Programme shows that although the main problems related to social integration of Roma are clear, so far the process of Roma integration has been lacking the dimension of social policy in a broad sense. The programme focuses on the education of Roma children and youth, and Roma inclusion into the labour market, however, fails to pay sufficient attention to the

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<sup>4</sup> For more information on Roma housing issues please refer to *Thematic Study Housing Conditions of Roma and Travellers – Lithuania* // [http://www.pedz.uni-mannheim.de/daten/edz-b/ebtr/09/Roma%20Housing-Lithuania\\_en.pdf](http://www.pedz.uni-mannheim.de/daten/edz-b/ebtr/09/Roma%20Housing-Lithuania_en.pdf);

<sup>5</sup> *Programme for the Integration of Roma People into Lithuanian Society 2008-2010*. Available in Lithuanian at [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=317530&p\\_query=&p\\_tr2=](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=317530&p_query=&p_tr2=);

areas of social support, health care and, as it was mentioned before, housing. Due to lack of financial resources, at the beginning of 2010 implementation of the *Programme* has been terminated, altogether. Although 1 mln LTL has been planned for allocation each year, in 2008 365 000 LTL were allocated, and in 2009- 400 000 LTL.<sup>6</sup> At the meantime, Ministry of Culture is preparing the next Roma Integration Programme.

### **1.3. Recommendation Nr. 9**

*9. The Committee is concerned that incidents of domestic violence against women and children are rising. While noting the efforts made by the State party to combat domestic violence, including the National Equal Opportunities Programme and the Action Plan on Violence against Children, the Committee notes that there is no special legislation relating to domestic violence within the legal system (arts. 3 and 7).*

*The State party should take all necessary measures, including the enactment of appropriate legislation, to deal with domestic violence. New legislation should include the introduction of restraining orders as a means of protecting women and children from violent family members. The State party should continue its efforts to provide shelters and other support for victims of domestic violence and take measures to encourage women to report domestic violence to the authorities, and to make police officers more sensitive in their handling of allegations of domestic violence, including rape and its psychological impact on the victim.*

Since year 2006, two national strategies aimed at combating violence against women were adopted. However both *State Strategy for Reducing Violence against Women in 2007-2009*<sup>7</sup> and *State Strategy for Reducing Violence against Women in 2009-2012*<sup>8</sup> failed to introduce proper legal framework which is essential to reduce domestic violence. No definition of domestic violence is found in national legislation. Under current legislation, cases of domestic violence can be prosecuted privately, i.e. victim is responsible for filling a complaint, gathering evidence and representing herself in court as she is not entitled to receive State guaranteed legal aid. The last version of draft *Law on Protection from Violence in Private Space*<sup>9</sup> fails to correct the situation.

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<sup>6</sup> <http://www.delfi.lt/news/daily/lithuania/romu-integravimas-i-darbo-rinka-tebera-problematiskas.d?id=32940817>;

<sup>7</sup> *State Strategy for Reducing Violence against Women in 2007-2009*. Available in Lithuanian at [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=306081](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=306081);

<sup>8</sup> *State Strategy for Reducing Violence against Women in 2009-2012*. Available in Lithuanian at [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=351089](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=351089);

<sup>9</sup> The draft Law is scheduled for consideration at the Parliament by the end of 2010. Available in Lithuanian at [http://www.lrs.lt/pls/proj/dokpaieska.showdoc\\_l?p\\_id=47150&p\\_query=&p\\_tr2=&p\\_org=&p\\_fix=n&p\\_gov=n](http://www.lrs.lt/pls/proj/dokpaieska.showdoc_l?p_id=47150&p_query=&p_tr2=&p_org=&p_fix=n&p_gov=n);

Relevant NGOs report the lack of trained officers, capable to properly assess cases of domestic conflicts, to find out the reasons for domestic violence, and to assist victims<sup>10</sup>.

In spring 2010 Lithuanian Parliament rejected amendments to the *Law on Fundamentals of Protection of the Rights of the Child*, which would *expressis verbis* prohibit any form of violence against children. The draft law called for prohibition of any physical, sexual, psychological or emotional abuse, humiliation and exploitation, neglect or negligent treatment that poses a risk to the life of the child, actual or potential damage to the child's health, survival, development or dignity, as well as any physical punishment. During debates in Parliament, a number of MPs expressed the view, that the use of physical force against children is a part of national heritage and/or an effective means of upbringing.

Criminal law in force does not include a number of forms of violence against children. Furthermore, unless the use of physical force caused serious injury or loss of life, the charge must be brought on the victim's initiative. However, a child has no procedural legal status and must be represented by the legal guardian, who often is the one using physical force against a victim. It is evident that in this case *a lex specialis*, is necessary; a properly complemented Law on Fundamentals of Protection of the Rights of the Child could serve this purpose.

#### **1.4. Recommendation Nr. 11**

11. The Committee is concerned that under article 12 of the Law on Pre-Trial Detention and the Code on Enforcement of Punishment adults may be detained together with minors in "exceptional cases". While noting the State party's explanation that separation of minors and adults is the norm, the Committee observes that the law does not contain criteria for determining which cases are exceptional.

The State party should ensure that juveniles accused of criminal offences and deprived of their liberty are separated from adults, in accordance with article 10, paragraph 2 (b), of the Covenant.

According to the Article 10(1)(2) of the *Law on Pre-Trial Detention*<sup>11</sup> minors should be detained separately from adults. No exceptions are provided. However, Article 52(1) of the *Code on Enforcement of Punishment*<sup>12</sup> reads as follows " In short-term detention (arrest)<sup>13</sup> in facilities women and men, adults and minors shall be detained separately or shall be detained in

<sup>10</sup> For additional information see *Shadow Report on the Implementation of CEDAW and Women's Human Rights in Lithuania*. //

<http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/LithuaniaShadowReport41.pdf>;

<sup>11</sup> *Law on Pre-Trial Detention*. Available in Lithuanian at

[http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=325124&p\\_query=&p\\_tr2=](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=325124&p_query=&p_tr2=)

<sup>12</sup> *Code on Enforcement of Punishment*. Available in Lithuanian at [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=370789](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=370789);

<sup>13</sup> Extract from Article 49 of the *Criminal Code of the Republic of Lithuania* " ...2. Arrest shall mean a short-term imprisonment served in a short-term detention facility. The term of arrest shall be counted in days. 3. Arrest shall be imposed for a period from 15 up to 90 days for a crime and from 10 to 45 days for a misdemeanour...";

*separate facilities, if such possibility exists<...>". As it was mentioned by the Committee on Prevention of Torture (CPT)<sup>14</sup>, practice of keeping juveniles together with adults is linked by authorities to "shortage of empty cells" in the detention facilities. During the CPT' visit in Šiauliai City Police Headquarters, the delegation observed that a juvenile remand prisoner had been kept in a cell together with two adults for over a week.*

CPT also expressed its concern about juveniles being at risk of physical ill-treatment during questioning by officers of the criminal police, aimed at obtaining confessions or other information. The ill-treatment alleged mainly consisted of kicks, punches, slaps and blows with truncheons or other hard objects (such as wooden bats or chair-legs). CPT heard allegations about extensive beating and asphyxiation using a plastic bag or gas mask. In certain cases, the delegation gathered medical evidence which was consistent with the allegations made. Further, some persons interviewed by the delegation alleged ill-treatment of a psychological nature, such as verbal abuse or threats to use violence. In addition, a few allegations were received concerning the excessive use of force (e.g. kicks and truncheon blows) at the time of apprehension, after the person concerned had been brought under control.<sup>15</sup>

### **1.5. Recommendation Nr. 12**

*12. While noting the information provided orally by the delegation on sex education in schools, the Committee is concerned at the high rate of unwanted pregnancies and abortions among young women between the ages of 15 and 19, and the high number of these women contracting HIV/AIDS, with consequent risks to their life and health (art. 6).*

*The State party should take further measures to help young women avoid unwanted pregnancies and HIV/AIDS, including strengthening its family planning and sex education programmes.*

According to UNFPA statistics (year 2004), only 30.5% of women in Lithuania use modern methods of contraception. The high number of abortions performed each year in Lithuania indicates that it is probably one of the primary methods of family planning. According to a Lithuanian Government official, Lithuania performs three times as many abortions every year than in Scandinavian countries. Official statistics show that in 2006 approximately 10.8 out of every 1,000 women of reproductive age in Lithuania have undergone an induced abortion and almost 24 % of Lithuanian adolescent pregnancies end in induced abortion.

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<sup>14</sup> Visit to Lithuania from 21 to 30 April 2008. Report available at <http://www.cpt.coe.int/documents/ltu/2009-22-inf-eng.pdf>;

<sup>15</sup> Ibid, p. 10;

These State official statistics include only abortions performed in public health institutions.<sup>16</sup>

***Sex education in Lithuania.*** Sexual education is still not provided in school on a systematic basis. Students receive limited information on the topic during biology classes and even this is taught at the discretion of the teacher. The curricula does not give adequate attention to topics like contraception, protection from sexually transmitted infections, and the promotion of safe sex practices and equitable gender relations.

In 2007, the Ministry of Education and Science adopted the *Family Life Education Program*, which they planned to introduce in schools as a sex education programme. However, the authorities have done little towards its implementation and for ensuring systematic teaching of comprehensive and evidence-based sex education in schools: no curriculum has been adopted, there are no textbooks prepared, and the training manual for teachers contains scientifically inaccurate and discriminatory information. Scientists and representatives of equal opportunities institutions criticized the training manual for being based on the traditional, religious teachings of family, sexuality, and contraception. According to their assessment, the training manual identifies family only within marriage; associates other forms of relationships with irresponsibility, divorce, and violence; considers homosexuality a physical and psychological disorder; views sexual intercourse exclusively in the context of procreation; and promotes sexual abstinence and the refusal to take artificial contraceptives as the basis of sexual education.<sup>17</sup>

Lack of access to sexual education is troublesome especially in the context of limited knowledge about sexually transmitted diseases and the steady increase in rates of infections amongst youth. A regional report published in May 2006 showed that, in Lithuania, “[y]oung people’s knowledge about STIs is patchy and shallow. The prevalence of sexually transmitted infections (syphilis, gonorrhoea, chlamydeous) among 15-19 years old is 66 cases (0.2 per 1,000 15-19 years old) in 2004. The rate of HIV among young people aged 15-25, although low, has increased from 32 cases in 2003 to 47 cases in 2004.” For the year 2006, the Lithuanian authorities reported 100 new HIV cases (77% IDUs). The incidence of syphilis cases increased dramatically, from fewer than 10 cases per 100 000 in 1983-1991 to 101/100 000 in 1996, before dropping back to 10/100 000 in 2006. In addition, as it was stated above, the rates of adolescent unwanted pregnancies and abortions remain high.<sup>18</sup>

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<sup>16</sup> Information source: *Supplementary Information on Lithuania Scheduled for Review during the 41st Session of the CEDAW Committee, P.3* // <http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/CRR Lithuania41.pdf>;

<sup>17</sup> Ibid. P. 6-7;

<sup>18</sup> Idem;

## 1.8. Recommendation Nr. 16

16. The Committee reiterates the concern expressed in its concluding observations on the State party's previous report that the registration process continues to make distinctions between different religions, and that this amounts to unequal treatment contrary to articles 18 and 26. It notes that religious communities that do not meet the registration criteria are disadvantaged in that they may not register as legal persons and, therefore, as acknowledged by the delegation, may face certain difficulties, *inter alia* with respect to the restitution of property.

*The State party should ensure that there is no discrimination in law or in practice in the treatment of different religions.*

The Lithuanian Constitution provides the freedom of religion and the main regulations on religious communities are provided by Law on Religious Communities and Associations<sup>19</sup>. Since 1995, when the Law came into effect, ten sets of amendments were adopted, however, none of them aimed at changing the initial "three-tier system" of registered religious groups. The Law still divides registered religious communities into state-recognized "traditional" religious communities, other state-recognized religious groups, and all other registered communities and associations. The Constitution recognizes "traditional" churches and religious organizations, as well as other churches and religious organizations, provided that they have a basis in society and their teachings and rituals do not contravene morality or the law.

Government authorities acknowledge as traditional only those religious groups that can trace their presence in the country back at least 300 years. The law enumerates nine traditional religious communities: Latin Rite Catholics (Roman Catholics), Greek Rite Catholics, Evangelical Lutherans, Evangelical Reformed Churchgoers, Orthodox Christians (Moscow Patriarchate), Old Believers, Jews, Sunni Muslims, and Karaims. In fact, however, Roman Catholic Church enjoys a privileged position. Even in times of economic austerity, State financing of Catholic organizations did not decrease.

"Traditional" religious communities and associations may register marriages, establish subsidiary institutions, establish joint private/public schools, provide religious instruction in public schools, and be eligible to receive government assistance. Their highest religious leaders are eligible to apply for diplomatic passports, their clergy and theological students are exempt from military service, and they may provide military chaplains. The Ministry of Justice does not require traditional religious communities and associations to register their

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<sup>19</sup> Law on Religious Communities and Associations. Available in Lithuanian at [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=363706](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=363706);

bylaws. Traditional religious communities do not have to pay social and health insurance taxes for clergy and other employees, and they are not subject to a value-added tax on basic utilities.

The law stipulates that the Government may grant state recognition to "non-traditional" religious communities that have societal support and have been registered in the country for at least 25 years. The Evangelical Baptists, one of 11 Baptist groups in the country, and the Seventh-day Adventists are the only state-recognized non-traditional religious groups. In practice, they receive some privileges from the Government, but not to the extent that traditional religious groups do. They are entitled to perform marriages and do not have to pay social security and health care taxes for clergy and other employees. However, unlike traditional communities, the Evangelical Baptists and Seventh-day Adventists are not eligible for annual subsidies from the Government, they do not receive the exemption from the value-added tax on utilities, and their clergy and theological students are not exempt from military service<sup>20</sup>.

In 2007 Constitutional Court of the Republic of Lithuania reaffirmed the three-tier status of religious communities in Lithuania and superior status of traditional religious communities over non-traditional: *"...the different status of churches and religious organisations that are traditional in Lithuania and other churches and religious organisations originates from the Constitution itself. ...only those churches and religious organisations may be named as traditional in the law, the tradition of which does not raise any doubts...for churches and religious organisations to be recognised as traditional in Lithuania, it is far from sufficient for them to inter alia act in Lithuania for several decades or meet other formal criteria established by the legislator, since tradition of churches and religious organisations does not appear even over several generations, but it is a long-term process progressing uninterrupted over the centuries, which is to be related with a long-lived spiritual and cultural development of the Lithuanian society and which has an essential impact on it; therefore, in laws the legislator must name those churches and religious organisations as traditional in Lithuania, which undoubtedly correspond to the aforementioned concept of tradition and may not name those churches and religious organisations as traditional in Lithuania, which do not correspond to the aforementioned concept; upon stating and naming in the law, which churches and religious organisations are traditional in Lithuania, the legislator may not extend this list, unless a very long time has passed after such statement and the extension of such a list would reflect the changed development and status of religious culture of the Lithuanian society"*.<sup>21</sup>

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<sup>20</sup> For more information please refer to International Religious Freedom Report 2009. Available in English at <http://www.state.gov/g/drl/rls/irf/2009/127321.htm>;

<sup>21</sup> Decision of the Constitutional Court of the Republic of Lithuania. 6 December 2007. Available in English at <http://www.lrkt.lt/dokumentai/2007/d071206.doc>;

## PART II - OVERVIEW OF SELECTED ARTICLES

### 2.1. Article 7

*No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.*

**CIA Extraordinary Rendition Program in Lithuania.** On August 20, 2009 ABC news published an article "Officials: Lithuania Hosted Secret CIA prison To Get "Our Ear" where Lithuania has been identified as a third European country providing CIA with facilities for a secret detention and "enhanced" interrogation of high-value al Qaeda suspects<sup>22</sup>.

On 5 November 2009, the Lithuanian Parliament launched an investigation into the allegation and on 22 December 2009 it confirmed Lithuania's participation in the Extraordinary Rendition Program. The Parliamentary Inquiry Committee failed to establish whether CIA detainees were transported through the territory of Lithuania or were brought into/out of the territory of Lithuania. However, it concluded that conditions for such transportation did exist, and conditions were created for holding detainees in Lithuania.<sup>23</sup>

On November 18, 2009 ABC News informed that CIA secret detention facility has been identified at the Horseback Riding Academy near Vilnius.<sup>24</sup>

Research for "Joint study on global practices in relation to secret detention in the context of countering terrorism of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances"<sup>25</sup>(hereinafter- Joint Study) conducted by UN Human Rights Council appeared to confirm that Lithuania was incorporated into the Secret Detention programme in 2004:

*"Two flights from Afghanistan to Vilnius could be identified. The first, from Bagram, took place on 20 September 2004, the same date that ten detainees previously held in secret detention, in a variety*

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<sup>22</sup> Matthew Cole, Officials: Lithuania Hosted Secret CIA Prison To Get "Our Ear", in ABC News, 20 August 2009, <http://abcnews.go.com/Blotter/story?id=8373807>. See also Dick Marty: time for Europe to come clean once and for all over secret detentions, 21 August 2009, [http://assembly.coe.int/ASP/NewsManager/EMB\\_NewsManagerView.asp?ID=4859&L=2](http://assembly.coe.int/ASP/NewsManager/EMB_NewsManagerView.asp?ID=4859&L=2);

<sup>23</sup> Available in English at [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=364097&p\\_query=&p\\_tr2=](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=364097&p_query=&p_tr2=);

<sup>24</sup> Matthew Cole and Brian Ross: CIA Secret 'Torture' Prison Found at Fancy Horseback Riding Academy. In ABC News Finds the Location of a "Black Site" for Alleged Terrorists in Lithuania; Nov. 18, 2009; <http://abcnews.go.com/Blotter/cia-secret-prison-found/story?id=9115978>;

<sup>25</sup> <http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A-HRC-13-42.doc>;

of countries, were flown to Guantanamo, and the second, from Kabul, took place on 28 July 2005. The “dummy” flight plans filed in respect of flights into Vilnius customarily used airports of destination in different countries altogether, excluding any mention of a Lithuanian airport as an alternate or back-up landing point.”

Experts of Joint Study emphasized, that: *The Experts stress that all European governments are obliged under the European Convention of Human Rights to investigate effectively allegations of torture or cruel, inhuman or degrading treatment or punishment.*<sup>26</sup> *The failure to effectively investigate might lead to a situation of grave impunity and is injurious to the victims, their next of kin and society as a whole, and fosters chronic recidivism of the human rights violations involved. The experts also note that the European Court of Human Rights has applied the test of whether “the authorities reacted effectively to the complaints at the relevant time.”*<sup>27</sup> *A thorough investigation should be capable of leading to the identification and punishment of those responsible for any ill treatment; it “must be ‘effective’ in practice as well as in law, in particular in the sense that its exercise must not be unjustifiably hindered by the acts or the omissions of the authorities”.*<sup>28</sup> *Furthermore, according to the European Court, authorities must always make a serious attempt to find out what happened*<sup>29</sup> *and “should not rely on hasty or ill-founded conclusions to close their investigation or as the basis of their decisions.”*<sup>30</sup>

Only on 22 January 2010 on the basis of information gathered during the Parliamentary inquiry Office of Prosecutor General launched a pre-trial investigation on suspicion of misuse of powers by former leadership of the State Security Department. Reportedly, however, two former Directors and Deputy Director of SSD were questioned as witnesses which under Lithuanian law precludes their prosecution. Prosecutor’s Office failed to launch an investigation on Article 100 of the Criminal Code *Treatment of Persons Prohibited under International Law*, Article 146 *Unlawful Deprivation of Liberty* and Articles 291 and 292 dealing with illegal crossing of State’s boarder.

## 2.2. Article 10

1. *All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.*

2. (a) *Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;*

<sup>26</sup> See for example, *Assenov et al v. Bulgaria* (1999) 28 E.H.R.R. 652;

<sup>27</sup> *Labita v Italy*, Application no. 26772/95 (Judgment of 6 April 2000), para. 131;

<sup>28</sup> *Aksoy v. Turkey*, Judgement of December 1996, para 95; *Kaya v. Turkey*, Judgment of 19 February 1998, para 106;

<sup>29</sup> *Timurtas v. Turkey* (2001) 33 E.H.R.R. 6 ECHR, para.88;

<sup>30</sup> *Assenov v. Bulgaria*, Judgement of 28 October 1998, para. 104;

(b) *Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.*

3. *The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.*

**Overcrowding of Detention Facilities.** Available data of October 2008 shows that Kaunas and Šiauliai Remand facilities, Lukiškės Remand Prison and Prison Hospital were overcrowded. Although the formal number of prisoners in other prisons was not exceeded in terms of the available places, Alytus, Marijampolė Penitentiaries and Pravieniškės 2<sup>nd</sup> Penitentiary accommodated more prisoners than provided for in effective *Internal Order Rules of the Penitentiaries*<sup>31</sup>.

The inspection of the Lukiškės Prison Hospital revealed that due to overcrowding of the internal illness department, it is impossible to provide an area of 7 sq m for each patient bed as is required by the sanitary norms; the majority of the wards are overcrowded, the equipment is worn, mattresses are torn, and the paint on the surfaces of shelves and tables is peeling off, which prevents adequate cleaning and disinfection. At the time of the inspection, the Lukiškės Prison Hospital administration explained that all the funding allocated to the hospital goes towards repairs and renovation of the facility and the funds received are not sufficient to ensure that adequate patient care conditions are met as required by rules.<sup>32</sup>

To solve the issue of overcrowding in prisons, *the Programme of Prison Renovation and Humanisation of Imprisonment Conditions for 2004-2009* was approved, according to which the number of beds in prison should be no higher than would be allowed in residential premises. However, in 2007 – more recent information is not available - up to 12 persons at a time were accommodated in one room in the newly built residential premises of the renovated Kybartai Penitentiary and Vilnius 2<sup>nd</sup> Penitentiary<sup>33</sup>.

**Insufficient staff competence.** The majority of convicts' complaints filed with the Seimas Ombudsman in 2007-2008 were related to the actions of prison officers. In 2007 this accounted for 39% of all complaints<sup>34</sup>, while in 2008 to 38%.<sup>35</sup>

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<sup>31</sup> Order No. 194 on the Approval of Rules of Internal Order in Penitentiaries, issued by the Minister of Justice on 2 July 2003. Available in Lithuanian at [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=216039&p\\_query=&p\\_tr2=](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=216039&p_query=&p_tr2=);

<sup>32</sup> Human Rights in Lithuania: Overview 2007-2008, P. 83 //

[http://www.hrmi.lt/uploaded/PDF%20DOKAI/Human\\_Rights\\_Overview\\_2007\\_2008.pdf](http://www.hrmi.lt/uploaded/PDF%20DOKAI/Human_Rights_Overview_2007_2008.pdf);

<sup>33</sup> Activity Report 2007 of Lithuanian Seimas Ombudsmen, p. 36 // <http://www.lrski.lt/files/276.pdf>;

<sup>34</sup> Ibid, p. 34;

<sup>35</sup> Activity Report 2008 of Lithuanian Seimas Ombudsmen, p. 30 // <http://www.lrski.lt/files/353.pdf>;

Shortage of employees and their lack of professional knowledge and skills often result in the imposition of penalties on convicts. About 40 per cent of all disciplinary measures consist of the strictest measures: solitary confinement, confinement in an isolation cell, and transfer to bunker-type premises.

As testified by a convicted woman, as soon as there is any conflict prisoners are confined to solitary confinement cells<sup>36</sup>. Positive outcomes can hardly be achieved with severe treatment<sup>37</sup>. Trust between officers and a convict is lost<sup>38</sup>, even though it is known that good relations between officers and prisoners are one of the main indicators of the operational quality and atmosphere of an institution.

The validity of penalties imposed often raises doubts, too. For instance, on 25 May 2007 the Supreme Administrative Court of Lithuania left unchanged the ruling of Kaunas County Administrative Court annulling the decision of the director of one of the penitentiaries who shut the applicant in the solitary confinement cell for ten days because he stood in the morning line without having his hair cut as he was required to do, according to the administration. The court stated that legislation does not regulate the length of prisoners' hair and does not provide for the obligation to have a short hair-cut. It has to be noted that pursuant to the Code of Sentence Execution of the Republic of Lithuania, the appeal against the penalty does not suspend the execution of the penalty.

The development of a national prevention mechanism for supervising conditions in prisons is likely to contribute to improvement in the professionalism of the personnel of prison facilities. Although Lithuania has not ratified the 2002 Optional Protocol to the UN *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* that commits countries to establish such mechanisms, a supervisory group for human rights situations in closed prison facilities was formed in the Seimas Ombudsmen's Office in 2008. Its main objective is to conduct preventive monitoring of closed prison facilities and to ensure the protection of rights of persons who are inmates there. However, no work results of the supervisory group were made public yet.

### **2.3. Article 14**

*1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a*

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<sup>36</sup> <http://www.delfi.lt/archive/article.php?id=13900272>;

<sup>37</sup> <http://www.alfa.lt/straipsnis/144820>;

<sup>38</sup> <http://www.alfa.lt/straipsnis/c79185>;

*fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.*

*2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.*

*3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;*

*(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;*

*(c) To be tried without undue delay;*

*(d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;*

*(e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;*

*(f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;*

*(g) Not to be compelled to testify against himself or to confess guilt.*

*4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.*

*5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.*

6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

A public poll conducted at the end of 2008 showed that the right to fair trial is seen as the most vulnerable (65% respondents) human right among a number of civil and political rights.<sup>39</sup>

**Severe Infringements of the Right to Fair Trial.** Pre-trial investigations are characterised by a lack of professionalism, however, no measures have been undertaken to improve their quality. In 2008, the European Court of Human Rights (ECHR) adopted a judgement in the case *Ramanauskas v Lithuania*<sup>40</sup>. In this case, the applicant contested the legality of the use of criminal conduct simulation model by police officers. ECHR considered that there is no indication that the offence would have been committed without the intervention of police agents and that their actions had the effect of inciting the applicant to commit the offence. The Court recognised that the applicant's trial was unfair.

In another case *Malininas v Lithuania*<sup>41</sup>, the ECHR also recognised the unlawful application of criminal conduct simulation model and the infringement of the right to fair trial. In its judgement, the Court stressed again that the use of special investigation techniques has to have clearly defined limits, while the collection of evidence inciting one to commit a crime is unlawful. The Court also concluded that the transaction of the sale and purchase of psychotropic substances was provoked by the police officer.

Hurried hearing of cases in courts led to the conviction of innocent persons. The results of the inspection conducted by the Supreme Administrative Court of Lithuania in the first six months of 2007 showed that every third person whose case concerning a theft from a store was convicted for an offence that he/she did not commit. In one of the cases, an innocent person was imprisoned for 8 months for robbery based on the fictitious testimony of two people. After the judgement was appealed against, and accusations were found to be false the eight months of imprisonment were valued at LTL 20.000, i.e. LTL 80 (about \$30) for

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<sup>39</sup> *Vilmorus Human Rights Poll 2008*. Human Rights Monitoring Institute. Available in Lithuanian at [http://www.hrmi.lt/uploaded/TYRIMAI/Vilmorus\\_apklausa\\_2008.pdf](http://www.hrmi.lt/uploaded/TYRIMAI/Vilmorus_apklausa_2008.pdf);

<sup>40</sup> Application No. 74420/01, ECHR Judgement of 5 February 2008;

<sup>41</sup> Application No. 10071/04, ECHR Judgement of 1 July 2008;

each day of wrongful imprisonment. The same compensation of LTL 20,000 was awarded to another person for wrongful conviction and two years of wrongful imprisonment. The emerging court practice shows obvious moves towards the devaluation of the human right to freedom, thus, increasing the ranks of disappointed people distrustful of courts in Lithuania.

The media often infringed the principle of presumption of innocence. In the case of murder of two minor children which attracted a huge amount of publicity (Alma Jonaitienė case), one of the media channels called the suspect a „murderess“ who „killed two of her children“ before she was found guilty by the court. At the end of 2007, the Inspector of Journalist Ethics declared that such a description of the suspect before her conviction had violated the presumption of innocence. However, even after a warning was issued to the owner of the media outlet, it continued to violate the presumption of innocence in its subsequent publications.

***Proportionality of Arrest and Detention on Remand during Pre-trial Investigation.*** Pursuant to the *Code of Criminal Procedure*, the proportionality principle must be adhered to the application of coercive measures during pre-trial investigation. However, in practice pre-trial investigation officers abuse this principle. Quite often a person suspected of a minor crime is arrested for 48 hours, as allowed by law, and then simply released after this period expires since there are no grounds for going to court for the authorisation of detention on remand.

The appeal procedure against the arrest is absolutely ineffective. Pursuant to the CCP, a complaint against the arrest is made to a prosecutor supervising this pre-trial investigation, while the decision of the prosecutor can be appealed against to a higher prosecutor. Only at the third level, does an opportunity exist to lodge a complaint with a judge. The prosecutor and the judge must take a decision within five days of the date of the receipt of „the complaint and the material required for decision“. In the meantime, the duration of arrest must not exceed 48 hours. Predictably, there are very few complaints lodged against the legality of arrests.

The application for detention on remand also occurs too often. In 2007, the Public Prosecutor's Office declared that in cases of terminated pre-trial investigations where suspects have been detained on remand, they have on average spent almost a month (29.5 days) in detention facilities.

## 2.4. Article 21

*The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.*

In the end of 2009 Seimas Ombudperson produced a report<sup>42</sup> on the right of peaceful assembly. The report showed that for the period of one year 10 percent of requests for peaceful assembly in Vilnius municipality were denied. Denials were based on Article 11 (1) (2) of Law on Meetings which reads as follows: *“Upon consideration of a notification about organisation of a meeting, the head of the executive body of the municipal council or a representative authorised by him shall take one of the following decisions which shall be announced immediately: ...to refuse to issue such certificate if when organising a meeting state security or public safety, public order, people’s health or morals or the rights and freedoms of other persons may be violated.”* As the actual reasons for denials frequently served anonymous Internet-placed commentaries, this indicated possible disorders during the assemblies.

The case in which the Human Rights Monitoring Institute and the Centre for Equality Advancement were refused a certificate to run a peaceful rally illustrates the point.

In March 2009, the Human Rights Monitoring Institute and the Centre for Equality Advancement, Vilnius-based NGOs, informed Vilnius municipality about an intention on March 11 to run a peaceful rally *Against Racism and Xenophobia – for Tolerance*. The march through the streets of Vilnius was planned for peaceful citizens of Lithuania who wished to express their support for constitutional values - freedom, democracy and tolerance. The letter said that HRMI and LGPC organise the event to commemorate the national Day of Regaining Independence and to support free, democratic and respectful of human rights Lithuanian State.

After two sittings of the public events coordination commission, established by Vilnius municipality, attended by representatives of HRMI and LGPC, on March 10 municipality refused to issue a certificate for the event on the ground that it may violate public order and safety, public health and morality, and freedoms and rights of others.

HRMI and LGPC have challenged this decision in court. Applicants submitted that formal arguments for rejection of request – that planned rally may violate public order and safety, as well as public health and morality and freedoms and rights of others - were not

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<sup>42</sup> Available in Lithuanian at <http://www.lrski.lt/index.php?p=0&l=LT&n=62&pazyma=3930>;

substantiated by any evidence. In addition, in violation of the Assembly Act decision by the Vilnius municipal administration was passed in less than 48 hours before the event. HRMI and LGPC lost the case both at the trial level<sup>43</sup> and on appeal<sup>44</sup>. Decisions have been appealed against at the Supreme Court.

In the Report mentioned above, Seimas Ombudsperson stated, that Vilnius City Municipality's refusals were not based on objective information and breached applicant's rights to peaceful assembly. However, the conclusion of the Ombudsperson is not legally binding, therefore unlawful restrictions to the right of peaceful assembly are predicted to occur in the future.

## 2.5. Article 26

*All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*

***Intolerance and Discrimination on the ground of race, ethnicity and nationality.*** Surveys reveal that the "hierarchy of intolerance" remains the same - Roma, Chechens, refugees and Muslims are the least tolerated thus most vulnerable groups in Lithuania. Negative attitudes are particularly strong towards Roma – more than 45% of the public survey respondents would not like to work together with Roma people (67,1 % would not rent a flat to Roma, 57,1 % would not like to have a Roma as a neighbour). More than 30 % of respondents indicated that during five last years their opinion deteriorated about following groups: Roma, Jehovah witnesses, Muslims, Chechens, refugees, about 20 % - about Pakistani's, Chinese, Hinduists and Buddhists.<sup>45</sup>

Roma community clearly remains the most vulnerable group in a number of areas - employment, education, housing, health care, social security, among them. Extreme poverty, illiteracy, high criminality and negative attitudes of the mainstream society keep this group locked in social exclusion as is reflected in the fact that 40% of Roma do not know the national language.<sup>46</sup> Many Roma do not have identification papers, a number of them are stateless, although born in Lithuania. 46% of members of Roma community is

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<sup>43</sup> Decision Nr. 2-9120-465/2009, Vilnius 1<sup>st</sup> District Court;

<sup>44</sup> Decision Nr. 2A-431-302/2010, Vilnius Regional Court;

<sup>45</sup> Public Opinion Poll 2010. Center for Ethnic Studies.

[http://www.ces.lt/wp-content/uploads/2010/09/LSTC\\_ETI\\_2010\\_LT-gyvent\\_apklausa\\_socdinstanc1.pdf](http://www.ces.lt/wp-content/uploads/2010/09/LSTC_ETI_2010_LT-gyvent_apklausa_socdinstanc1.pdf);

<sup>46</sup> See *Annex, Roma: Situation Assessment*, Human Rights Monitoring Institute, 2005, Vilnius;

youth under 15 years of age<sup>47</sup>. This fact can be attributed to the short life expectancy of Roma and the latest tendency of emigration.

The situation in the area of Roma employment is particularly gloomy – in 2008, only 8,7% of Roma were legally employed.<sup>48</sup> Most of Roma earn income through temporary work or through illegal activities.

The main reasons influencing Romas' learning difficulties are the lack of social skills, linguistic barrier and poor school attendance<sup>49</sup>. Most Roma children (69%) did not attend either pre-school establishments; participation in afterschool activities is uncommon among them.

The long-term disregard for the increasing intolerance towards "otherness" on the part of the political authorities created conditions for the outburst of xenophobia. Most of racist, anti-Semitic and similar incidents were carried out by pro-Fascist youth - skinheads, who are widely perceived as patriots. On 11 March 2008, their already traditional march through the main streets of Vilnius included carrying flags with swastikas and skulls and repeated shouting *Juden raus; ...kill that little Jew; Lithuania for Lithuanians* and *Lithuania without Russians*. There was no immediate reaction from either the police or the state authorities. It was only following criticism from the media and NGOs, that the procession was condemned by top-level state officials; while the police initiated a pre-trial investigation into incitement to hatred. Attempts were made to mitigate this Nazi incident and even to interpret it as an expression of patriotism. A few participants of the procession were sentenced; however, an acquittal verdict adopted by the court in one of the cases stated that the slogan *Lithuania for Lithuanians* is acceptable. Similar marches in 2009 and 2010, although less offensive, included slogan *Lithuania for Lithuanians*.

In August 2008, the Jewish community center in Vilnius and the Jewish community center in Panevėžys and Jewish cemetery in Klaipėda were vandalized with anti Semitic symbols and language. In October 2008, a forest ranger in the Kelmė Region, near the village of Pluskiai, reported that vandals broke stones and painted anti Semitic graffiti on a Holocaust Memorial. An investigation of the incident was launched, no suspects were identified. Police failed to identify any suspects in the March 2007 vandalism of 12 headstones in the Sudervė Jewish cemetery in Vilnius, the vandalism of the Jewish cemetery in Rokiškis region, or the 2006 incident in which persons in Nazi style uniforms yelled pro Hitler and anti Semitic slogans while riding past a synagogue. Most recent anti-semitic incident occurred in August 2010 when outside the last remaining pre-war

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<sup>47</sup> Assessment of Roma situation: Roma in education and labor market. 2008. Centre for Ethnic Studies;

<sup>48</sup> Idem.

<sup>49</sup> Idem.

synagogue in Kaunas a pig's head with mock hasidic style earlocks and black hat was left on the doorstep.<sup>50</sup>

In May 2010 district court of Klaipėda ruled that the swastika is a part of the country's legacy and not a Nazi symbol. That was the judge's conclusion in a three-month case over four men who publicly displayed a swastika during an Independence Day parade in the western Lithuanian city of Klaipėda. The local court ruled that that swastika is a centuries-old symbol that depicts the sun. The judge said he made the ruling based on several historical artifacts.<sup>51</sup> *IA Regnum* news agency has reported that swastikas have been publicly displayed twice before in Lithuania without any legal objections. The first was during a May Day event and the second was in front of the presidential palace in the capital city of Vilnius.<sup>52</sup> Klaipėda prosecutor's office appealed against to Klaipėda regional court.

Although State Security Department officials claim that there are no organized right-wing extremist groups in the country, according to some of the skinhead movement representatives, their membership is increasing<sup>53</sup>.

Last years were also marked by increase of online comments expressing hatred for people of other races, ethnic origins or religions. These comments were of a spiteful and mocking nature and were also used to prompt others to annihilate "other" physically. The authors of comments inciting hatred are prosecuted under Article 170. *Incitement against Any National, Racial, Ethnic, Religious or Other Group of Persons* of the Criminal Code. Pre-trial investigations are most often initiated by NGOs and sometimes individuals. A very strict standard of proof for these offences - direct intent - is required by national courts. Furthermore, the court underlined that, in the opinion of the ECHR, a democratic society should also be tolerant towards opinions that are shocking or offensive to others. However, the ECHR applies this standard in the case of opinions, expressed by individuals coming from vulnerable minorities, which can be unpleasant, shocking or even insulting for the majority and not the other way around.

***Intolerance and Discrimination on the ground of sexual orientation.*** In July 2009 the Parliament passed, over the president's veto, amendments to the Law on the Protection of Minors against the Detrimental Effect of Public Information. The amendments, which were to take effect in March 2010, would prohibit *inter alia* the dissemination of information that

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<sup>50</sup> [http://www.alfa.lt/straipsnis/10404584/?Severed.pig.s.head.left.on.synagogue.doorstep=2010-08-24\\_10-41](http://www.alfa.lt/straipsnis/10404584/?Severed.pig.s.head.left.on.synagogue.doorstep=2010-08-24_10-41);

<sup>51</sup> <http://www.fighthatred.com/recent-events/national-political-hate/715-lithuanian-court-swastika-a-historic-legacy> ;

<sup>52</sup> <http://www.israelnationalnews.com/News/news.aspx/137650>;

<sup>53</sup> For additional information on hate motivated incidents please refer to *ENAR Shadow Report: Racism in Lithuania. 2008* // <http://cms.horus.be/files/99935/MediaArchive/national/Lithuania%20-%20SR%202008.pdf> ;

promote homosexual, bisexual, and polygamous relations (Article 4(1)(14))<sup>54</sup>. The law would *inter alia* to apply to films and Web sites. Following complaints from national and international human-rights organizations and the European Parliament<sup>55</sup>, the Parliament in December passed another set of amendments to the law, which replaced the prohibition on promoting homosexual, bisexual and polygamous relations with a ban on information "which promotes sexual abuse and harassment of minors and sexual relations by minors" as well as information "which promotes sexual relations"<sup>56</sup>. Also the provision prohibiting information that "undermines family values" was broadened to include information "which expresses contempt for family values, encourages the concept of entry into a marriage and creation of a family other than that stipulated in the Constitution of the Republic of Lithuania and the Civil Code of the Republic of Lithuania". According to the Constitution family is understood as a marriage between a man and a woman. Consequently any public advocacy for the same-sex marriages, partnership or other activities of LGBT organizations can be banned as having a detrimental effect on minors.

On 8 May the Baltic Pride took place in Lithuania. However, a decision by the Supreme Administrative Court<sup>57</sup> was needed to uphold the permission to go ahead. The march took place under heavy police protection and with a significant number of hostile protesters surrounding it. The hostility towards the event required the police to outnumber the participants.

## 2.6. Article 27

*In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.*

***The Strategy for the Development of Ethnic Minorities Policy up to 2015.*** *The Strategy for the Development of Ethnic Minorities Policy up to 2015* adopted in 2007<sup>58</sup> reflects a passive and outdated attitude towards the integration of minorities. The Strategy provides for the further integration of traditional, substantially well integrated ethnic minorities into society through education, reduction of stereotypes, prohibition of discrimination and measures of

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<sup>54</sup> *Law on the Protection of Minors against the Detrimental Effect of Public Information*. Available in English at <http://www.iglhrc.org/binary-data/ATTACHMENT/file/000/000/319-1.pdf> ;

<sup>55</sup> European Parliament resolution of 17 September 2009 on the Lithuanian Law on the Protection of Minors against the Detrimental Effects of Public Information, available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2009-0019+0+DOC+XML+V0//EN> ;

<sup>56</sup> Current version of *Law on the Protection of Minors against the Detrimental Effect of Public Information*. Available in Lithuanian at [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc?p\\_id=362891](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc?p_id=362891);

<sup>57</sup> Decision No. AS<sup>822</sup>-339/2010, Lithuanian Supreme Administrative Court;

<sup>58</sup> Resolution of the Government of the Republic of Lithuania No. 1132 *On the Approval of the Strategy for the Development of National Minorities Policy up to 2015* (Official Gazette, No. 112-4574);

occupational integration, however, it fails to reflect the changed political and changing demographic situation.

According to the decision of 10 June 2009 of the Government of the Republic of Lithuania<sup>59</sup>, the Department of National Minorities and Lithuanians Living Abroad under the Government of the Republic of Lithuania was reorganized on 1 January 2010, its rights and duties were distributed among following institutions:

- Lithuania's Ministry of Foreign Affairs: coordination of affairs of Lithuanians living abroad, including informal education,
- Lithuania's Ministry of Culture: coordination of issues of national minorities,
- Lithuania's Ministry of Education and Science: education of Lithuanians living abroad and national minorities.

Representatives of national minorities were concerned about the effectiveness of reorganization and about possible deteriorative effect on the rights of national minorities in Lithuania<sup>60</sup>. Coordination of all issues of national minorities except of education was transferred to Lithuania's Ministry of Culture which raises reasonable concerns about the administrative and functional capacity of ministry to deal with the range of issues, such as Roma housing or integration into labour market.

On 2 September 2009 Government of the Republic of Lithuania adopted a decision on the establishment of Commission for National Minorities Affairs<sup>61</sup>. As Commission would not work on full-time basis, its capacity to coordinate policy of national minorities and guarantee the continuity is also doubtful.

***Polish national minority.*** It is difficult to attain practical progress regarding the public use of Polish, as an auxiliary language alongside the official Lithuanian language, in public administration offices and institutions, in areas of compact Polish minority habitation. The Polish community in Lithuania, living in the Vilnius Region (over 61% of the total population), the Šalčininkai Region (80%) and the Švencionys Region (over 28%) has long petitioned the state authorities to be allowed, in areas of compact habitation of Lithuanian Poles, to publicly use – also in administrative offices – their language as an auxiliary language, alongside Lithuanian. In 2009 the Supreme Administrative Court of Lithuania in two cases<sup>62</sup> ruled that street names in the Vilnius Region should be spelled exclusively in

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<sup>59</sup> [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=361105](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=361105);

<sup>60</sup> <http://www.balsas.lt/naujiena/234288/zmogaus-teisiu-komitetas-apie-tautiniu-mazumu-politika>;

<sup>61</sup> [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=352191&p\\_query=&p\\_tr2=](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=352191&p_query=&p_tr2=);

<sup>62</sup> Decision No. A-261-997/2009, Lithuanian Supreme Administrative Court; Decision No. A-756-152/2009, Lithuanian Supreme Administrative Court.

Lithuanian, without the use of Polish (alongside Lithuanian). In its substantiation, the Court invoked the Law on the State Language, while ignoring the provisions of the Law on National Minorities, i.e. *lex specialis*. Vilnius and Šalčininkai Regional governments and local population refuse to remove signs with street names spelled in Polish. Head of local administrations are repeatedly fined by the State Language Inspection for spelling street names in Polish.

## ANNEXES

1. *Roma: Situation Assessment*, Human Rights Monitoring Institute, 2005, Vilnius
2. *Human Rights Overview: 2005*, Human Rights Monitoring Institute, 2006, Vilnius
3. *Human Rights Overview: 2006*, Human Rights Monitoring Institute, 2007, Vilnius
4. *Human Rights Overview: 2007-2008*, Human Rights Monitoring Institute, 2009, Vilnius