



HUMAN RIGHTS MONITORING INSTITUTE

ACTIVITY REPORT
2007

Vilnius
2008

ACTIVITY REPORT 2007

Human Rights Monitoring Institute (HRMI) has been founded in 2003 with the mission to promote an open democratic society through the consolidation of human rights and freedoms. The strategic goal of the Institute is to develop a culture respectful of human rights in Lithuania by raising awareness of human rights violations, their causes and consequences; encouraging Lithuanians to exercise their rights and, in certain cases, to assist in defending those rights; integrating permanent civil society monitoring of government performance in protection of human rights into political discourse; stimulating public discussions and dialogue between civil society and state institutions on human rights concerns; motivating state institutions and officials to bring about tangible improvements in legislation, programmes and services, intended to ensure and protect human dignity and human rights; increasing government accountability in policies and practices affecting human rights. HRMI conducts daily monitoring of public and relevant private institutions' activities, carries out research, prepares conclusions and recommendations, and initiates strategic litigation, implements awareness-raising and educational campaigns.

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INTRODUCTION

For over the past 15 years, the Lithuanian government has taken considerable steps to establish and strengthen its political and legal framework to guarantee human rights and liberties. A number of international human rights conventions and treaties have been signed and ratified. National implementing measures have been formulated for EU Directives concerning the principle of equal treatment between persons irrespective of racial or ethnic origin as well as establishing a general framework for equal treatment in employment and occupation, among others. Nevertheless, the human rights situation has worsened since Lithuania entered the European Union in 2004.

Entry into the European Union resulted in the withdrawal of an important political leverage tool: European Commission monitoring and publication of Regular Reports on state compliance with Copenhagen political criteria. Since entering the EU, no government institution has been tasked with monitoring and analysis of human rights situation, identification of problems, related to implementation of international human rights standards, formulation of solutions, awareness-raising and human rights education.

In these circumstances, during 2007 the Human Rights Monitoring Institute together with partners through a range of activities related to monitoring, research, advocacy and education, and strategic litigation attempted to fill in the gap and perform some of the functions commonly ascribed to the national human rights institutions. In 2007 HRMI within the two-year long programme financed by the European Commission embarked upon activities that seek the establishment of an effectively-functioning National Human Rights Institution in Lithuania.

INTEGRATED PROGRAMMES

In 2007, Human Rights Monitoring Institute carried out two integrated programmes: *the Programme of Enhancing the Culture Respecting Human Rights* and *the Programme of Strengthening the Capacities of Supporting and Defending Human Rights*.

The objectives of *the Programme of Enhancing the Culture Respecting Human Rights* include the promotion of awareness in the field of human rights among Lithuanian society, politicians, public officials and servants, and mass media representatives; the consolidation of human rights as the basis of democratic governance; and the enhancement of the capacity of civic sector to impact human rights policies and practice.

The objective of *the Programme of Strengthening the Capacities of Supporting and Defending Human Rights* is the strengthening of national capacities to defend and promote human rights and liberties in Lithuania, and the establishment of a national human rights institution for that purpose. The programme covers the period of 2007-2008.

Although the objectives and activities of the programmes differed, they both covered the usual forms of the HRMI activities, that is, monitoring, research, advocacy, education and strategic litigation. The activities of the programmes are described below.

MONITORING

Human Rights in Lithuania: Overview 2007

In May 2007, Human Rights Monitoring Institute presented its annual overview of human rights situation in Lithuania. The Overview states that a public survey conducted at the end of 2006 revealed that quite a number of people in the country feel insecure, are afraid to speak their mind openly, feel the lack of justice and do not trust state institutions. The analysis of human rights situation confirmed the logic behind this mistrust and misgivings.

The ingrained issues of the right to respect for private life were not being solved in 2006. On the contrary, the restriction of personal privacy continued, first and foremost, in the irresponsible introduction of technological innovations. For instance, in determining the introduction of biometric passports and the storage and collection of biometric data in the Population Registry, the issues of pertaining threats to personal privacy were not considered. Other issues of the right to respect for private life included the lack of legal clarity in controlling the e-workplace and employing video surveillance cameras; the criticism of the standards of the *Detention Act* regulating the censorship of prisoners' correspondence, expressed by the European Court of Human Rights.

The overview of the right to fair trial highlighted the continuing crisis of trust in courts and law enforcement institutions. The distrust has its reasons since judging from the results of trial observations conducted during 2006, the courts often violate the principles of equality of arms and adversarial proceedings, while bias against incriminated individuals persist. Despite obvious problems, there was no political will to undertake fundamental reforms. And what is more, the decision-makers demonstrated the inappropriate attitude towards courts by interfering into their operations, and employing them as an instrument to defend themselves from criticism.

Free speech and freedom of assembly were also ensured insufficiently. The efforts of politicians and some state institutions to restrict free speech in order to shield themselves from criticism were observed. No effective mechanism for controlling commissioned mass media is ensured. Mass media does not always demonstrate responsibility in regard to the content it disseminates.

The overview also draws attention to the violated rights of vulnerable social groups, in particular institutionalised children and mental patients. Despite the pressure by non-governmental organisations to change institutional system, which creates conditions for the violations of human rights, the government continues investing into this system instead of putting efforts to develop an effective supervision mechanism that would aid in reducing the extent of violations of human rights, and provide an opportunity to the vulnerable members of society, i.e. children and mental patients, to integrate into the society.

Right to Respect for Private Life

In 2007, HRMI continued to monitor the right to respect for private life. Like previously, the main problems of the right to respect for private life were caused by the inadequate understanding of the content and essence of the right on the part of the law-makers and the public. The main problematic areas were the irresponsible introduction of technological innovations, the disclosure of information related to the private life of persons, unreasonably frequent use of ID codes and other illegal handling of personal data, the lack of legal regulation in controlling e-workplace and introducing and using video surveillance cameras.

At the beginning of the year, HRMI provided its comments concerning the *Draft Law on the Amendment of the Law on Legal Protection of Personal Data*, where it proposed to include into the law general principles of personal data handling providing that the processing of personal data is permitted only in cases permitted by law and when other measures cannot guarantee the attainment of the lawful result. Among specific recommendations, HRMI proposed the initiation of integrated solution of the issue of personal code, and the safeguarding of legal certainty by introducing clear-cut definitions of certain terms in the law.

In March, HRMI contacted the Commission on Journalists' and Publishers' Ethics and the Journalists' Ethics Inspector concerning the violation of both the right to respect for private life and the *Law on the Protection of Minors against Detrimental Effect of Public Information* observed in a programme of TV3 Channel. Human Rights Monitoring Institute drew the attention to the programme that demonstrated intimate contact of a man and a woman in a lift of a block of flats.

Right to Freedom of Expression

Censorship of mass media

Commissioned by the Lithuanian Journalists Union, HRMI assessed the cooperation agreement concluded between the local newspaper in Elektrėnai Town and a police commissariat, pursuant to which the paper should coordinate the relevant information with an assigned police officer before making it known to the residents of Elektrėnai Municipality.

The assessment stresses that the Agreement provides conditions for the restriction of both free speech and the interests of the audience to receive "true, accurate and unbiased information" as provided for in the *Law on the Provision of Information to the Public*, therefore, the Agreement may become an unwelcome precedent and be instrumental in the formation of the practice restricting free speech. HRMI proposed to the Lithuanian Journalists Union to contact the editorial board of the newspaper with a proposal to terminate the cooperation agreement.

Criticism of the Authorities

Another issue of the freedom of expression that had already drawn the attention of HRMI in 2006 was the attempts to suppress the right to criticise the authorities invoking the Constitution of the Republic of Lithuania. In October, HRMI issued its public statement in response to the statement suggesting that the Constitutional Court is beyond criticism since only it can decide whether its decisions are correct. It was stated in the programme *Spaudos klubas (Press Club)* of Lithuanian public TV that the nation had delegated the exceptional right to speak on the subject of constitutionality to the Constitutional Court when it approved the Constitution by way of referendum. A law professor claimed that he would not accept any criticism concerning the judgements of the Constitutional Court from his students.

This position does not comply with the right to freedom of expression consolidated in both the *Constitution of the Republic of Lithuania* and the *European Convention of Human Rights and Fundamental Freedoms*. Both the *Constitution of the Republic of Lithuania* and the international instruments provide for the right of citizens to criticise all authorities of their country, including courts. The spirit of intolerance towards critical thinking and critical evaluation of the authorities, including courts, being alive in a law school raises particular concern.

Free Speech

International Day against Homophobia had to be marked by the trolley-buses carrying the slogans of social advertising to promote tolerance towards homosexual co-workers, cruising the streets. This informational campaign was organised within the EQUAL Initiative of the European Union. However, the trolley-buses with the social advertising never went to the streets since Vilnius City Council, which pursuant to the *Law on Equal Treatment* is vested with the duty to implement equal rights (for example, by adopting the decision concerning social advertising), did not issue the permit for social advertising.

Given all the known circumstances, there were doubts whether the Council would have also withheld its permit for the social advertising if it were targeting the rights and issues of other social groups. Jolanta Samuolytė, HRMI Research Director, prepared and published an article titled *Manifestations of Homophobia and Double Standards in Lithuania* about this issue and other issues related to homophobia.

The Right to Fair Trial

Violation of Presumption of Innocence

In October, Human Rights Monitoring Institute contacted the Journalists' Ethics Commission, the Journalists' Ethics Inspector and Chief Editor of *Lietuvos Rytas* Daily and its internet portal lrytas.lt concerning the violation of presumption of innocence observed in the said mass media.

In its letter, Human Rights Monitoring Institute noted that in Lithuania the justice is carried out exclusively by courts, and as long as the guilt of a person is not proved following the established legal procedures and the court decision is not pronounced, the accused person is deemed innocent.

After evaluating the said articles, the Ethics Commission denounced the violation of presumption of innocence. The Commission determined that the articles infringed Article 37 of the Code of Ethics of Journalists and Publishers that says: "A journalist and a person preparing public information shall observe the presumption of innocence. Only court may find a person guilty by its judgement", therefore pursuant to Paragraph 7, Article 46 of the *Law on the Provision of Information to the Public*, the decision of the Commission had to be announced in the next editions of the said mass media.

After carrying out his research, the Journalist Ethics Inspector acknowledged and denounced this publication as violating both the interests of minors that were involved in the described criminal case and the presumption of innocence of the accused person.

Practice of Constitutional Court

In February, Human Rights Monitoring Institute issued its public statement raising concerns about the ruling by the Constitutional Court of 9 February 2007.

The Constitutional Court ruled that the provision of the *Law on the Elections to Municipal Councils* that allows candidates to run for municipal election only if they are on electoral lists created by political parties is in contradiction with the Constitution of the Republic of Lithuania. However, despite this conclusion, the Court has declared that municipal elections should proceed without interruption. The public statement issued by Human Rights Monitoring Institute

stated that this ruling of the Constitutional Court contradicts not only the Constitution but also its previous rulings.

Manifestations of Discrimination and Intolerance in Lithuania

Mass Media Comments Inciting Hatred and Violence

In 2007, HRMI actively responded to a number of manifestations of intolerance observed in the electronic mass media.

For instance, HRMI filed a complaint with the Journalists' Ethics Commission and the Managing Director of *Lietuvos Rytas* Daily concerning the comments placed in the Website lrytas.lt that incited hatred towards homosexual persons and physical violence against them. The publicising of these comments contributed to the tension that occurred as a result of the rejection for organisations representing homosexuals to exercise their right of freedom of expression.

HRMI requested the Commission to evaluate the comments publicised on the Website lrytas.lt and to take necessary measures to ensure the removal of these comments and the prevention of these situations in future. However, soon after, when mass media reported a racist assault, the eDaily lrytas.lt again contained a great number of comments inciting racist hatred and violence. Human Rights Monitoring Institute contacted the senior public prosecutor of Vilnius City District with a request to initiate a pre-trial investigation, while the Editor of the daily was urged to remove the racist comments from the internet portal lrytas.lt. Soon after, the Editor informed HRMI about the removal of the comments from the portal.

Given the fact that the content of the comments in question and numerous other comments was offensive and inciting hatred and violence, in a numerous complaints to the relevant institutions, HRMI requested: (i) the managers of the internet portals to remove the said comments; (ii) Public Prosecutor's Office of Vilnius District to initiate the pre-trial investigation in relation to the authors of the comments pursuant to Paragraph 1 Article 170 of the Criminal Code; (iii) the Office of Journalists' Ethics Inspector and the Journalists Ethics Commission to evaluate the comments publicised in these internet portals.

National Family Policies

Manifestations of potential discrimination, as well as the violation of the right to respect for private life, were observed in the draft of the *Concept of National Family Policies* and the draft *Law on the Grounds of Support for Families*. In cooperation with other NGOs, HRMI contacted the Parliament with the request to reject both the concept and the law. In its letter, HRMI notes that both the draft *Concept* and the draft *Law on the Grounds of Support of Families* prioritise married couples and their families and provide for a discriminatory state support which contradicts the Constitution of the Republic of Lithuania, European Convention on Human Rights and other legal instruments, and, in contradiction to the declared objectives, the aftermath of their enforcement may be harmful to the very institute of family.

In 2007, HRMI also provided its opinion to the Ministry of Justice concerning the amendments of the *Civil Code* related to the registration of a partnership. HRMI holds that in terms of human rights protection, the registration of partnership may not be rejected.

Issue of Double Citizenship

In 2007, HRMI took an active part in the solution of problems related to the double citizenship. In spring, Henrikas Mickevičius, Director of HRMI, gave a speech on the issue of double citizenship in a meeting in the Parliament. He proposed to solve this issue by amending the provisions of the *Law on Citizenship*, and determining the separate list of exclusive cases for double citizenship, or, in other words, to list the categories of people entitled to double citizenship. Henrikas Mickevičius encouraged the law-makers to take into account the international standards of human rights and the explications of the Constitutional Court, and to adhere to the principles of equal rights and non-discrimination in drafting the amendments to the relevant legal provisions.

In September 2007, Jolanta Samuolytė, HRMI Research Director, was included into the working group for drafting a new version of the *Law on Citizenship of the Republic of Lithuania*.

RESEARCH

HRMI conducted a number of studies in the framework of *the Programme of Strengthening the Capacities of Supporting and Defending Human Rights*.

Base-Line Study

The study revised in a systematic way all national non-judicial human rights institutions in Lithuania. It outlined the mandate, basis of establishment, accountability, composition of staff, financial resources, and performance of each institution. Further, it provided a brief analysis of the institutions in the light of *Paris Principles* and was concluded with conclusions and recommendations.

The information about the institutions provided in the first part of the study, later was adapted and disseminated during different events and functions throughout Lithuania. It provided grass-root activists and ordinary individuals with a concise outline of the available human rights protection mechanisms. In particular, brochure about the available human rights protection mechanisms was distributed during the meetings with grass-root activists in Panevėžys (on 16 October 2007, discussion on “Whether civil and political rights are guaranteed in Lithuania”), in Utena (on 11 December 2007, discussion topic “Human rights situation in Lithuania”), and in Kazlų Rūda (on 11 December 2007, discussion topic “Human rights situation in Lithuania”).

Study Enforcement by Lithuania of Decisions by International Bodies in the Field of Human Rights

This was a specific base study later used for the feasibility study within the programme. The study aimed at identifying the positive and negative aspects related to the Lithuanian implementation of decisions adopted by the international judicial and quasi-judicial bodies. The main focus was paid to the implementation of judgments by the European Court of Human Rights.

Analysis of Reporting Mechanism to Ensure Compliance with International Treaties in the field of Human Rights

Human Rights Monitoring Institute prepared a study on reporting obligations to and implementation of recommendations by the international human rights bodies. The study overviewed under what international treaties and to what bodies Lithuania has an obligation to submit periodic reports; it analyzed the established mechanism of reporting and assessed its effectiveness in the light of international guidelines, and provided conclusions and recommendations.

The study revealed that reporting mechanism in Lithuania is decentralized, periodic reports are often prepared by state officers lacking expertise in human rights, there is no effective collaboration between the State institutions and the non-governmental sector (in fact there is a noticeable animosity), due to the lack of efficient monitoring mechanism, State often is not able to provide relevant factual or statistical data, and there is no efficient mechanism for supervision of implementation of recommendations adopted after presentations of reports. This research proved that establishment of the National human rights institution could become a turning point in the insurance of the effective reporting and monitoring of human rights in Lithuania.

No analytical research on this topic had ever been conducted in Lithuania, thus the study opened a floor for discussions among State institutions, officials, members of academia and NGOs.

Feasibility Study on Compliance of Lithuanian National Bodies with *the Paris Principles*

The Programme partner Danish Institute for Human Rights prepared a feasibility study on compliance of Lithuanian national human rights institutions with the *Paris Principles*. The HRMI provided DIHR with the terms of reference and three national studies: the National base-line study and two supplementary studies – on Lithuanian compliance with the international bodies' decisions and on Lithuanian compliance with the reporting obligations to the international treaty bodies. To conduct a research, DIHR external expert Thomas Trier Hansen visited Lithuania in December 2007. During the visit, DIHR independent expert escorted by HRMI representative Jolanta Samuolyte visited all the main institutions working in the field of human rights. During the study visit T. Hansen interviewed a number of officials representing the following institutions:

- the Seimas Ombudsmen's Office,
- the Equal Opportunities Ombudsman Office,
- the Children's Rights Ombudsman Office,
- the State Data Protection Inspectorate,
- the Parliamentary Committee on Human Rights,
- the Office of the Inspector of Journalist Ethics
- the Department of National Minorities and Lithuanians Living Abroad
- the Lithuanian Center for Human Rights (whose director was also interviewed in her capacity of as a scholar)
- the Human Rights Monitoring Institute
- the Institute for Social Research - Center of Ethnic Studies,
- the Law Institute; and
- the Martynas Mažvydas National Library of Lithuania.

Meetings with the representatives of the selected institutions were important in getting the first hand knowledge of the situation. Additionally, in many instances during the meetings with the representatives of institutions T. Hansen for the first time introduced and explained the concept of a National human rights institution, raising awareness of the issue. As a result, it triggered interest among representatives of state institutions to participate in the further stages of the project. After the extensive desk research and on the basis of information gathered during the study visit, the DIHR

prepared a feasibility study – “A National Human Rights Institution in Lithuania”. The study was the focus paper of the international conference “Feasibility of Establishing a National Human Rights Institution in Lithuania”, which took place on 17 March 2008 and is placed on the conference website (<http://konferencijos.hrmi.lt/?pageid=4>).

ADVOCACY AND AWARENESS-RAISING

Discrimination, Racism, Anti-Semitism and Other Forms of Intolerance

European Week Against Racial Discrimination

On March 19-26 2007, the Human Rights Monitoring Institute joined the international community in a series of events organized in Lithuania within the annual European-wide Action Week to actively engage Lithuanians for tolerance, equal rights and a celebration of diversity.

The programme of Action Week against Racism 2007 included various events and activities that were centered on youth and included discussions, art exhibitions, film screenings and concerts.

Participants of the Action Week had a unique opportunity to discover the culture of people we see daily but know little about. Well-known artists presented their work and politicians, state officials and community leaders discussed the sensitive issues related to racism.

Programme of Events and Activities included:

19 March

Roundtable discussion “The Price of Racial Discrimination: Effectiveness of the Equal Opportunities Policy in Lithuania” and press conference. During the roundtable discussion, state officials, researchers and representatives of the NGO community discussed ways to ensure equal opportunities for all racial and ethnic groups in Lithuania.

Opening of the Photograph Exhibition by award-winning photographer Andrew Miksys and Presentation of his photo album "BAXT". BAXT is the first book-length collection of photography by Andrew Miksys. "Baxt" – a Romani (Gypsy) word that means Luck, Fate, Destiny, Karma, or Kismet – touches upon many of the themes that Miksys addresses in his work with the Lithuanian Roma. Relying on the close relationships he's developed with his subjects over the past 7 years, Miksys never seeks to romanticize the Gypsy world, nor does he rely on clichés and stereotypes in his portraits. Gone are the typical, grainy, black-and-white photo-journalist shots of barefoot children and wild dogs and in their place are quiet and contemplative, but still challenging, portraits of a community struggling in the backdrop of intense poverty and racism. The exhibition was opened at the Contemporary Art Centre 19-25 March.

20 March

Discussion on discrimination in employment in regional town of Utena.

21 March

Discussion on discrimination in employment in regional city of Panevezys.

Special event *Live Library* for Lithuanian MPs.

24 March

The concert "...Stretch out a hand to other human being". The visitors enjoyed performances by Polish, Tatar, Russian, Jewish, Lithuanian, Roma, Greek, Moldovan-Romanian and Belorussian folk groups. The event also featured poetry reading, a film screening, and extra fun guaranteed by proven event moderators. The concert provided an excellent opportunity to get acquainted with the cultures of minority groups in Lithuania.

Action "Music against Racism" at Youth Club INTRO. Included - film screenings, discussions and presentations by organizations participating in the Week against Racism.

Participants had an opportunity to view various documentaries, related to the theme of racial and ethnic tolerance, and to get acquainted with the work of relevant institutions, organizations and programmes, such as the Office of Ombudsperson for Equal Opportunities, the Department of National Minorities, the International Commission for the Evaluation of the Crimes of Nazi and Soviet Occupation Regimes in Lithuania, Red Cross, the Human Rights Centre, the Roma Society Centre, the Human Rights Monitoring Institute, the CoE Campaign "All different – All Equal", and Project "In Corpore" by European Communities initiative EQUAL.

Documentaries and presentations were followed by performances of popular youth bands and DJs: Afroband, comprised of four black refugees and former inhabitants of the Pabrade Refugee Centre, as well as Dr. Green, Sportas, Messiah, dj Defoneition, dj uwa kahula (doomoostudio) and other.

The event received unprecedented attention of Lithuanian and international students and youth groups.

26 March

Action "Youth against Racism" – the last in a series of events organized by HRMI within the "Action Week against Racism." High school students and teachers from different regions of Lithuania came to Vilnius to view documentaries featuring the problems of the Roma, the Jews and the refugees. There was an address by a Member of Parliament, a discussion moderated by the Executive Director of the International Commission for the Evaluation of the Crimes of Nazi and Soviet Occupation Regimes in Lithuania and a concert by popular performers and school children of various ethnic backgrounds.

International Human Rights Day and Human Rights Awareness Month

Like every year, Human Rights Monitoring Institute announced December as Human Rights Awareness Month and organised a number of related events. *Human Rights Awareness Month 2007* was opened with the discussion *Human Rights in Law-making* on 7 December. The discussion was moderated by Kęstutis Čilinskas, Member of Parliament and former Chair of HRMI Board. The traditional *Annual Human Rights League of Shame* was announced at the time of the discussion.

The conference *Disability in the Lithuanian Cultural Context* discussing the integration issues of the disabled was held at Vilnius City Council at 10 am on the same day. A documentary on the

shortcomings in adaptation of the physical environment to the needs of the disabled in Lithuania was demonstrated to the participants of the conference on the initiative of HRMI.

In commemoration of the International Human Rights Day, HRMI awarded Equal Opportunities Ombudsman Aušrinė Burneikienė the title of Human Rights Champion 2007 during live national TV programme *Good Morning* on the 10th of December.

All those interested in the issues of human rights in Lithuania could participate in the discussion *Lessons of the Case L v. Lithuania* organised by HRMI and ELSA Vilnius (Vilnius Branch of Lithuanian National Group of European Law Students' Association) on 12 December. Among discussants were Elvyra Baltutytė, the Government Agent at the European Court of Human Rights and Viktoras Šapurovas, psychotherapist and sex therapist. The discussion was moderated by radio journalist Audrys Antanaitis.

Discussions on human rights issues also took place in Lithuanian regions (in Utena on 11 December; in Kazlų Rūda on 18 December). Prior to the *Human Rights Awareness Month*, in October Henrikas Mickevičius, Executive Director of HRMI, and Jolanta Samuolytė, Research Director, met with the residents of Panevėžys City in the discussion *Are Civil and Political Rights Ensured in Lithuania?*

Workshop on the Right to the Freedom of Expression and the Rights to Respect for Private Life

In November, in cooperation with the University of Lucerne School of Law and Mykolas Romeris University, HRMI organised a two-day international workshop *Freedom of Expression vs. the Right to Privacy* for public officials, law practitioners, journalists and NGO representatives.

The workshop was moderated by professors Alexander Morawa and Martina Caroni from University of Lucerne and Dr Karyn Kenny from the Supreme Court of the United States of America.

Twenty-four selected participants examined two fundamental human rights – freedom of speech and the right to respect for private life, and how they are interrelated. Despite the fact that both these rights are among the most important rights in the international human rights conventions and Constitutions of democratic states, they do not always complement each other but are often in conflict, for example, when the private behaviour of a person becomes a subject of public interest. The following themes were discussed during the workshop:

- The relation of the right to privacy and free speech in general terms;
- Balancing of rights in regard of persons of non-traditional sexual orientation; and
- The issue of children pornography and the state's "limit of tolerance" in combating this phenomenon.

Round of Seminars for Journalists

In 2007, in the framework of the Programme of Enhancing the Culture Respecting Human Rights, in cooperation with the Lithuanian Journalism Centre, HRMI held five seminars, organised a study tour and prepared a paper on media responsibility in covering activities of politicians. The sixth and final seminar was organized in 2008.

1. Seminar: *Lessons of the case L against Lithuania*. Attended by 12 journalists representing various media outlets (print, audio, TV) and conducted by HRMI Executive Director, the seminar was focused on the emerging trend among Lithuanian politicians to question State commitment to its international obligations in the field of human rights.
2. Seminar: *Rights of individuals belonging to vulnerable groups: Lithuania in global and European context*. Seminar was conducted by Dainius Puras, HRMI Board Chair and Member of the UN Committee on the Rights of the Child, and attended by 10 journalists. Seminar focused on children rights and rights of mentally disabled.
3. Seminar: *Are Human Rights Integrated into Legislative Drafting?* Conducted by Kestutis Cilinskas, MP and former Chair of HRMI Board, and attended by 9 journalists. The discussion aimed to clarify whether human rights are adequately integrated into Lithuanian legislative procedure. The main conclusion of the seminar - legal analysis of draft legislation is often performed by lawyers unfamiliar with the basic human rights principles.
4. Seminar *Data Protection and the Right to Privacy* was conducted by HRMI Executive Director and Algirdas Kuncinas, Director of State Inspectorate for Personal Data Protection. Seminar was organized upon request by journalists' and attended by 16 representatives of various media outlets. Moderators focused the discussion on restrictions to privacy allowed in the name of public interests. Moderators expressed their opinions about the changes in the data protection regime that are imminent as a result of joining the Schengen space, and touched upon the content and consequences of the EU Directive on Electronic Data Retention.
5. Seminar: *Current Tendencies of Racial Discrimination and Intolerance*. Attended by 12 journalists and moderated by Tadas Leoncikas, Senior Researcher of the Ethnic Studies Center at the Institute for Social Studies, the discussion was focused on the recent study on youth attitudes towards ethnic and racial minorities. The research demonstrated growing negative youth attitudes towards both traditional and non-traditional minorities in Lithuania. In this context, participants expressed their concern that Lithuanian politicians are most often inclined to deny the very existence of racial, ethnic, religious intolerance in Lithuania.
6. Study Tour: *Open Day at the Refugee Centre*. On the occasion of the International Refugee Day, Human Rights Monitoring Institute in cooperation with the Lithuanian Chapter of Red Cross and the "In Corpore" project by the European Communities initiative EQUAL carried out an Open Day event at the Refugee Centre in Pabrade.

The event featured a documentary about the Roma, followed by the discussion. Inhabitants of the center took part in a fair that included tasting of national delicacies of Chechen, Pakistani and Africans.

Info-bulletin

From March 2007 HRMI distributes the electronic info-bulletin on important human rights issues. The info bulletin reaches over 2000 registered recipients.

Among the addressed human rights issues in Bulletin were: presentation of annual human rights review, growing homophobia in Lithuania, case of L. v. Lithuania at the European Court of Human Rights, judgment of Supreme Court of Lithuania in case of legal incapacity, appeal regarding the State concept of family and draft law on the basement of support for the family, Lithuanian report for the Optional Protocol on Children in Armed Conflict (OPAC), Lithuania in 2006 annual report

of Privacy International, consideration of draft law on life protection in pre-natal stage, UN Special rapporteur's evaluation of the visit in Lithuania, public outbursts of intolerance.

HRMI and the Media

HRMI regularly provides its opinion on the relevant issues of human rights in the national media and consults both Lithuanian and foreign journalists. In 2007, HRMI staff members were invited to discussion programmes and quoted by media in 265 instances. Numerous of HRMI statements were noted and prompted further publication of supporting or opposing articles or making of TV and radio programmes.

Media that quoted HRMI staff members or invited them to give their opinion included, among others, National TV and Radio, TV Channels LNK, TV3, BTV and 5th Channel, Radio Channels News Radio, M-1 and Lietus, national and regional dailies: Lietuvos Rytas, Respublika, Kauno diena, Lietuvos Žinios, Vakarų ekspresas and Klaipėda; weeklies: Veidas, Laikas, Panorama, Kontrastai, national news agencies BNS and ELTA, news portals: Delfi.lt, Omni.lt (Balsas.lt), Bernardinai.lt, LRT.lt, Lrytas.lt, INFOLEX.lt, Alfa.lt.

STRATEGIC LITIGATION

The Human Rights Monitoring Institute developed eight strategic court cases.

1. Three of eight cases were related to the fact that in 2006 Ms. *Dalia Budrevičienė* went public with the information about the illegal payments – “the envelope” practice – at her workplace *Krekenavos agrofirma*. She was fired as a consequence and a libel case was brought against her by the director of the company.

In HRMI’s view the case raised important questions about the limits of a freedom of speech at the workplace and thus took a decision to challenge the termination of a labour contract and defend Ms. Budrevičienė in case that attempted her prosecution for the exercise of human rights.

D. Budreviciene, represented by HRMI, came out a winner in two cases. Panevezys district court ruled that Ms. Budreviciene's dismissal was illegal and awarded financial compensation. Kedainiai district court cleared Dalia Budreviciene on the charge of libel. The court argued that mere expression of an opinion, even if in exaggerated and inaccurate way, cannot be a cause for criminal prosecution. The third case claiming unprecedented 500.000 Litass for moral damages suffered as a result of actions by *Krekenavos agrofirma* is pending.

2. On 11 September 2007, the European Court of Human Rights (ECHR) delivered its judgment in the case of *L v. Lithuania*. L was represented at the ECHR by HRMI.

The court noticed a gap in the law regulating the right to gender reassignment which created an impediment for the transsexual person *L* to complete the procedure and therefore recognised that Lithuania violated Article 8 (right to respect of private and family life) of the European Convention of Human Rights.

Lithuania, in order to meet *L*’s claim for pecuniary damage, is to adopt the required legislation on gender-reassignment. Should those legislative measures prove impossible to adopt within three months of the judgment becoming final, ECHR would award L 40,000 euros in respect of pecuniary damage. L was also awarded EUR 5,000 in respect of non-pecuniary damage.

It should be noticed that taking into account the significance of the issue, in October 2006 the European Court of Human Rights held public hearings in the case. It was only the third time that a case against Lithuania was examined in the oral procedure. The case received substantial public interest throughout Europe.

3. Similarly, the case of *Erika v. Lithuania* challenges the refusal of relevant authorities to change identity documents for post-operational transsexual in violation of the national laws and the European Convention of Human Rights. By the end of 2007 the case was pending.
4. On the basis of the information about violations of the rights of legally incapable people collected during the implementation of the project named *Monitoring Human Rights in Mental Health Care Institutions* in 2004-2005, HRMI undertook an analysis of the Lithuanian system of legal incapacity and guardianship. The analysis showed that the laws

regulating incapacity and custody do not conform to human rights standards. The analysis was used to prepare a strategic case on behalf of *D.L.*

In unprecedented move, *D.L.* was granted a possibility to challenge the decision of the court that stripped her of legal capacity in her absence and without informing her about the decision. In 2007, the Supreme Court of Lithuania found faulty the long-standing practice abusive of rights of individuals who are subjected to legal incapacitation procedure. The case has been sent for reconsideration. The Supreme Court noted that "in cases of deprivation of legal capacity there is always a danger to violate the fundamental human rights of concerned individuals, therefore solid arguments should be presented in order to initiate legal procedure, and during the process courts have to ensure an adequate protection of the right to fair trial in accordance with the *European Convention for Human Rights* (article 6, part 1)".

This and other arguments of the Supreme Court represent an important step towards changing the deep-rooted faulty practice in cases of legal incapacitation.

5. In the case of *Marcinkevič v. Disona*, HRMI employed an innovative method of testing for discrimination to challenge the widespread discrimination of Roma people in employment.

Saicha Marcinkevic (further – S.M.) applied to the restaurant “Lakstingala” belonging to the “Disona” company for the advertised vacancy of a dish washer. Before the job interview, S.M. called the restaurant to inquire whether the position is still vacant. She was assured that position is free and was invited for an interview. A few minutes later, S.M. went to the restaurant. Having seen that the candidate is of Roma origin, the restaurant administrator informed that the vacancy is filled. Half an hour later, on HRMI request the court bailiff called the restaurant to inquire whether the same position is vacant and received a confirmation. About two hours later, HRMI asked the Lithuanian woman to apply for the same job. The restaurant official agreed to accept this person for the job and asked her to start working next day. On behalf of S. M., HRMI filed a claim that she has been discriminated against on racial basis. The case is pending.

PARTICIPATION IN WORK GROUPS AND COMITTEES

In 2007, HRMI officers, board members and experts participated in the following work groups:

- On the improvement of legal regulation of incapacity (Kęstutis Čilinskas, Chair of HRMI Board);
- On the drafting of new *Law on Citizenship of the Republic of Lithuania* (Jolanta Samuolytė, HRMI Research Director); and
- National Council of the State guaranteed legal aid system (Inga Abromavičiūtė, HRMI delegated expert).

By the decree of the President of the Republic of Lithuania Henrikas Mickevičius was appointed to be a member of Judicial Selection Committee.

INTERNATIONAL COOPERATION

On Extradition - Birnberg Peirce Law Firm, London

In June 2007, Birnberg Peirce Law Firm in London contacted Human Rights Monitoring Institute with a request to provide an independent report on the imprisonment conditions in the penal institutions of Lithuania. In London, the law firm acted on behalf of a citizen of the Republic of Lithuania who, on request of Lithuanian authorities, had to be deported to Lithuania to serve his sentence. The law firm attempted at appealing against this ruling of the UK institution motivating that the person with diagnosed mental disorders and clinical depression as well as the history of two attempted suicides will not be provided with adequate conditions complying with human rights standards in a Lithuanian detention facilities. After the Public Prosecutor's Office provided its position on the request of the UK institution, the Human Rights Monitoring Institute submitted its opinion as an independent expert institution.

Submission for the Privacy International and the Electronic Privacy Information Center's Report

The HRMI submitted report a report on the protection of the right to respect for private life in 2006 for the joint global report by the the Privacy International and the Electronic Privacy Information Center. The HRMI contribution, fully accepted for the final report, emphasized that in 2006 in Lithuania had been a noticeable increase in establishment of video surveillance systems throughout the country; Lithuania had introduced biometric data in passport and this information is stored in the Population register; the list of potential surveillance targets is not exhaustive; courts issue warrants for surveillance without strict scrutiny; excessive wiretapping is troubling given recurring instances of leaks of collected information; there is no legal framework regulating electronic surveillance at work place.

Board Member of Human Rights Monitoring Institute Elected a Member of UN Committee on the Rights of the Child

On 21 February, Dainius Pūras, a Board Member of Human Rights Monitoring Institute, was elected to serve on the UN Committee on the Rights of the Child. Dainius Pūras is the first Lithuanian elected to one of UN expert committees monitoring the implementation of human rights protection conventions since the entry of Lithuania into the UN in 1991.

Training abroad

During 2007, HRMI Executive Director Henrikas Mickevičius, in his capacity of an expert of the Council of Europe, conducted the training courses on the application of the European Convention on Human Rights for Moldovan Judges (January, Chisinau), Serbian lawyers (July, Belgrade), Russian lawyers (July, Krasnoyarsk and December, Rostov-on-Don), Azerbaijan judges (October, Baku), and Belorussian civil society representatives (November, Vilnius).

HRMI STRUCTURE

Board

Up to October 2007:

Kęstutis Čilinskas – Chair
Lawyer

Henrikas Mickevičius
HRMI Executive Director

Dainius Pūras
Associated Professor, Faculty of Medicine, Vilnius University; Member of UN Committee on the Rights of the Child

Arūnas Pemkus
Board Chair, Integrity PR Agency

Tadas Vizgirda
Vice President of Air Baltic Company, Head of Lithuanian Branch

From October 2007:

Dainius Pūras – Acting Chair
Associated Professor, Faculty of Medicine, Vilnius University; Member of UN Committee on the Rights of the Child

Henrikas Mickevičius
HRMI Executive Director

Arūnas Pemkus
Board Chair, Integrity PR Agency

Tadas Vizgirda
Vice President of Air Baltic Company, Head of Lithuanian Branch

STAFF

Up to March 2007:

Henrikas Mickevičius, Executive Director

Asta Radvilaitė, Research Director

Aina Damkutė, Project Coordinator

Dovilė Šakalienė, HRMI representative in Geneva

From March 2007:

Henrikas Mickevičius, Executive Director

Jolanta Samuolytė, Research Director

Aina Damkutė, Project Coordinator

Dovilė Šakalienė, HRMI representative in Geneva

Experts and consultants

Margarita Jankauskaitė, Centre for Equality Advancement

Tadas Leončikas, Department of Ethnic Studies of the Institute for Social Research

Petras Ragauskas, Institute of Law

Gintautas Sakalauskas, Institute of Law

Klementina Gečaitė, Global Initiative on Psychiatry

Raimonda Vengrytė, Global Initiative on Psychiatry

Daiva Brogienė, PhD of Vilnius University

Otilija Gabrėnaitė, Centre for Legal Projects and Research

Inga Abramavičiūtė, lawyer

Diana Gumbrevičiūtė, lawyer

Volunteers and Interns

Vytautas Želvys

Rapolas Bieliauskas

Rimantė Tamulevičiūtė

Jovita Jazdauskaitė

Ozgur Artanc Savas (Turkey)

Jordi Feo Valero (Spain)

Evelina Barčkutė

Alyssa Vigneault (USA)

Alice Bridge (USA)

Tanya Dickson (UK)

Nilay Crafty (UK)

Aivaras Škėma

Ramunė Mikšaitė

Ekaterina Diatchenko (Canada)

Financial resources

In 2007, the HRMI budget consisted of funds received from donor institutions and individual donations. Major institutional sponsors:

- European Commission (Programme on *Strengthening the Capacities of Supporting and Defending Human Rights*)
- Ministry of Foreign Affairs of the Kingdom of Netherlands (Programme on *Enhancing the Culture Respecting Human Rights*)
- Open Society Fund (institutional support)
- Canadian Embassy in Lithuania
- Certain percentage of funds used for HRMI activities were donated by individuals through the opportunity to allocate 2 per cent of their income-tax at their discretion.