



ŽMOGAUS TEISIŲ STEBĖJIMO INSTITUTAS
HUMAN RIGHTS MONITORING INSTITUTE

Didžioji g. 5, LT-01228, Vilnius. Tel. (5) 23 14 681 Faks. (5) 23 14 679. El. p. hrmi@hrmi.lt www.hrmi.lt

Alternative Report

*Prepared for the
Committee on the Elimination of Racial Discrimination*

*On the occasion of its review of
Lithuania's Fourth and Fifth Periodic Reports under the*

*International Convention on the
Elimination of All Forms of Racial Discrimination*

Date submitted: February 2011

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.

TABLE OF CONTENTS

TABLE OF CONTENTS	3
BACKGROUND AND INTRODUCTION	4
PART I – IMPLEMENTATION OF COMMITTEE’S CONCERNS AND RECOMMENDATIONS	5
1.1. RECOMMENDATION No. 9.....	5
1.2. RECOMMENDATION No. 10.....	6
1.3. RECOMMENDATION No. 11.....	7
1.4. RECOMMENDATION No. 12.....	8
1.5. RECOMMENDATION No. 13.....	13
1.6. RECOMMENDATION No. 14.....	14
1.7. RECOMMENDATION No. 18.....	16
1.8. RECOMMENDATION No. 19.....	18
1.9. RECOMMENDATION No. 20.....	18
1.10 RECOMMENDATION No. 21.....	19
1.11 RECOMMENDATION No. 23.....	21
1.12 RECOMMENDATION No. 24.....	22
1.13 RECOMMENDATION No. 26.....	23
1.14 RECOMMENDATION No. 27.....	23
PART II – ADDITIONAL ISSUES OF CONCERN	24
2.1. ARTICLE 5 (D)(IX).....	24
2.2. ETHNIC MINORITIES: CURRENT DEBATE.....	25

BACKGROUND AND INTRODUCTION

1. Lithuania acceded to the International Convention on the Elimination of All Forms of Racial Discrimination (thereinafter – ICERD) on 10 November 1998. The Convention came into force for Lithuania on 9 December 1998. No declarations or reservations were made upon ratification. Lithuania did not accede to Article 14 of the Convention to recognize the competence of the Committee on the Elimination of Racial Discrimination (thereinafter – Committee) to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation by Lithuania of any of the rights set forth in the Convention.
2. Lithuania submitted its initial report (CERD/C/369/Add.2) under Article 9 of the CERD in 2000. It was considered by the Committee at its 1497th and 1498th meetings (CERD/C/SR.1497 and 1498), on 5 and 6 March 2002, and at its 1520th meeting (CERD/C/SR.1520), on 21 March 2002, the Committee adopted the concluding observations (CERD/C/60/CO/8).
4. Lithuania submitted its second and third periodic reports (CERD/C/461/Add.2) under Article 9 of the ICERD in 2004. It was considered by the Committee at its 1733rd and 1734th meetings (CERD/C/SR.1733 and 1734), held on 21 and 22 February 2006. At its 1753rd meeting (CERD/C/SR.1753), held on 7 March 2006, the Committee adopted the concluding observations (CERD/C/LTU/CO/3).
5. Lithuania’s fourth and fifth periodic report submitted in 2010 is presently before the Committee for consideration. The fourth and fifth periodic report covers the period of 2004-2010.
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. This Report does not address implementation of all of the rights included in the ICERD. Instead, the Report provides additional information about the implementation of the certain Committee’s recommendations, and highlights current debate on issues relevant to ethnic minorities, and the implementation of the right to assembly in support of ICERD objectives.

PART I – IMPLEMENTATION OF COMMITTEE’S CONCERNS AND RECOMMENDATIONS

1.1. Recommendation No. 9

9. The Committee notes with concern the lack of adequate data relating to the ethnic composition of the population. It further notes that this may constitute an obstacle to the assessment of progress towards the elimination of discrimination based on race, colour, descent, or national or ethnic origin.

The Committee requests the State party to provide in its next periodic report updated specific information on the ethnic composition of its population. The Committee also requests a clarification on the distinction, as envisaged in the new draft law amending the Law on National Minorities, between “ethnic” minorities or groups, and “national” minorities.

Before 1 January 2010 the rights and freedoms of national minorities in Lithuania were regulated by the *Law on National Minorities* adopted back in 1989 and amended by the Supreme Council of the Republic of Lithuania in 1991. As of 1 January 2010 the *Law on National Minorities* expired and the *Government’s Resolution on Reorganization of the Department of National Minorities and Emigration* came into force. This Resolution distributed the activities, rights and duties of the Department 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.¹ Coordination of all issues of national minorities, except for 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.

The draft *Law on National Minorities* considered in 2005 has never been adopted and since then no other draft laws on national minorities have been introduced until last year. For more than a decade Lithuania is not able to adopt a *Law on National Minorities* in order to develop its integration policies.

¹ <http://www.balsas.lt/naujiena/234288/zmogaus-teisiu-komitetas-apie-tautiniu-mazumu-politika>

The new draft *Law on National Minorities* is now being considered in the Parliament. However, in its conclusions the Legal Department of the Office of the Parliament, the Committee on Education, Science and Culture and the Committee on Legal Affairs questioned the need to have a separate law to regulate the rights of national minorities. The Government of the Republic of Lithuania did not approve the draft law, which is the standard practice before parliamentary consideration, either. The date of the voting in the Parliament for the draft law is has not been determined.

The Strategy for the Integration of National Minorities until 2015 (hereinafter – *Strategy*) adopted in 2007,² as well as *the National Antidiscrimination Programme 2009-2011* adopted in 2009,³ reflect a narrow, passive and outdated attitude towards the integration of minorities. These documents focus on cultural integration of national minorities (therefore the functions of the Department of National Minorities and Emigration were transferred to the Ministry of Culture), and completely disregard the social problems. Furthermore, the *Strategy* provides for the further integration of traditional, essentially well integrated ethnic minorities into society through education, reduction of stereotypes, prohibition of discrimination and measures of occupational integration, however, it fails to reflect the changed political and changing demographic situation.

Moreover, a greater contribution to a creation of national minorities' policy in Lithuania is made by media or separate ethnic groups rather than through a thorough analysis or a comprehensive research on the actual situation. Since 2003 no statistical data has been collected on the rates of unemployment of national minorities; no research has been conducted on the different educational achievements of children of different ethnic groups (studying in schools in Lithuanian language or in one of the national minorities' languages); no comparative analysis has been carried out on the standards of life of different ethnic groups, etc.

While implementing the integration of national minorities' policy, Lithuania rarely uses the financial mechanisms provided by the EU. There is only one project on national minorities at the moment, implemented in Lithuania under the Human Resources Development Programme 2007-2013 of the European Social Fund.⁴ No integration programmes are carried out at the municipal level, though quite a few tools envisaged in the national programmes could be implemented more effectively at the local level.

1.2. Recommendation No. 10

10. The Committee is concerned that the Convention has never been applied by the Courts, despite its direct applicability in domestic law (art. 2).

² *The Strategy for the Integration of National Minorities until 2015*, approved by the Government of the Republic of Lithuania, No 1132, 2007.10.17, (Žin., 2007, No 112-4574)

³ *National Antidiscrimination Programme 2009-2011*, approved by the Government of the Republic of Lithuania, No 317, 2009.04.15, (Žin. No 49-1964)

⁴ Project “*Turn back to Roma: Innovative measures of Roma Participation in Labour Market*”, March 2009 – March 2012

The Committee recommends that the relevant authorities provide, as soon as possible, adequate training to judges and lawyers to ensure that they are aware of the content and the direct applicability of the Convention in domestic law.

Though there have been several law-suits of racial or ethnic discrimination, the Convention indeed has not been applied by the Courts to date. Furthermore, the following examples reveal that judges and lawyers lack knowledge of the provisions in force against racism and racial or ethnic discrimination, or even adequate comprehension as to the content and implementation of Article 170 *Incitement against Any National, Racial, Ethnic, Religious or Other Group of Persons* of the *Lithuanian Criminal Code*.

It is disturbing that Lithuanian courts require an exclusively high standard of proof for racial or ethnic discrimination crimes and tend to misinterpret and misapply the case-law of the European Court of Human Rights. The Lithuanian case-law tends to demonstrate that public incitement against any racial, ethnic, religious or other group of persons (Article 170 of the *Criminal Code*) is conceived as a minor crime, which does not pose serious danger to the public or state. Until 2009 the severest punishments imposed by the courts on convicted persons in such cases were fines.

On 25 May 2009, Lithuanian Supreme Court rejected an appeal of the Prosecutor's office concerning the acquittal by the trial court of a person who had advocated violence against the Roma in one of the news portals.⁵ The court declared that not every negative statement about a person or group of persons belonging to that group in terms of gender, sexual orientation, race, nationality, language, origin, social status, religion, beliefs or attitudes constitutes a criminal offence under the meaning of Article 170 of the *Criminal Code*. Moreover, the court found the lack of *direct intent* to incite hate, though it is quite difficult, if possible, to reach that standard of proof in cases of hateful online comments. In addition, the court ruled that different standards should be applied depending on whether expression is a fact or a value judgment (opinion). The court quoted case-law of the European Court of Human Rights and underlined that a democratic society should also be tolerant towards opinions that are shocking or offensive to others. But unlike the Supreme Court of Lithuania, the European Court for Human Rights accepts expressions that are shocking and/offensive for the majority for population when they used by members of minorities and not *vice versa*.

1.3. Recommendation No. 11

11. The Committee, while welcoming the existence of a number of advisory bodies dealing with human rights and specifically with the rights of national minorities, regrets that the State party has not yet envisaged establishing a National Human Rights Institution (art.2).

⁵ 26 05 2009 decision of Lithuanian Supreme Court

The Committee encourages the State party to consider the establishment of an independent national human rights institution, in accordance with the Paris Principles relating to the status of national institutions (General Assembly resolution 48/134), which would, *inter alia*, contribute to monitoring and evaluating progress in the implementation of the Convention at the national and local levels.

Despite the trend of deterioration of the human rights situation since 2004, Lithuania has yet to develop an efficient institutional framework for the protection and promotion of human rights.

Even though there exists no human rights institution in Lithuania that would monitor the implementation of international commitments on the national level, serve as focal point for international human rights bodies, analyze 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 organizational work, the government and lawmakers fail to understand the necessity of the establishment of the National Human Rights Institution.

Lithuanian political parties and government 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 and government programmes fail 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 analytical and other expert work which is instrumental in developing a rational and effective national human rights policy.

Since 2007, the Human Rights Monitoring Institute has been advocating for the establishment of an effectively-functioning National Human Rights Institution. The Resolution, adopted by the international conference on *The Feasibility of Establishing a National Human Rights Institution in Lithuania* held in Vilnius in March, 2008⁶, 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, which are essential for the effective functioning of democracy, do not appear to decrease. Direct attempts to introduce the issue into government's agenda in 2009-2010 did not succeed.

1.4. Recommendation No. 12

12. The Committee remains concerned that racist and xenophobic incidents and discriminatory attitudes towards ethnic minorities are still encountered in the country, including expressions of racial hatred by politicians and the media (art. 2 and 4).

⁶ For more information, please see http://www.hrmi.lt/uploaded/ZTSI%20Veiklos%20atask/HRMI_Annual_Activity_Report_2008_web.pdf , P. 6

The Committee encourages the State party to continue to combat prejudice and xenophobic stereotyping, especially in the media, and to fight prejudice and discriminatory attitudes. It reiterates its recommendation to the State party to comply with its obligation under article 4 (a) of the Convention to combat effectively such phenomena. In this context, the Committee recommends that the State party introduce in its criminal law a provision that makes committing an offence with a racist motivation or aim an aggravating circumstance allowing for a more severe punishment.

1.4.1. General Overview

The long-term disregard for the increasing intolerance towards other people on the part of the political authorities, the inadequate response of law enforcement institutions to the racist, anti-Semitic and other kind of intolerance created conditions for the outburst of xenophobia, racism and anti-Semitism, the peak of which has been reached in 2007-2008 and continues.

Racism most visibly manifests itself in sports. In March 2007, during a football match between Lithuanian and French national teams in Kaunas, Lithuanian football fans greeted the French with racist posters (“Welcome to Europe”) and calls.

In May 2008, a group of radical fans of Vilnius basketball club marched to the sport arena carrying a flag with a right-wing extremist symbol (“white power fist”). A month earlier the same group of fans during the match with another team had waived the flag with other symbols and a “White legion” slogan written on it. On numerous occasions dark-skinned basketball players playing for Lithuanian clubs have become victims of racist remarks and violence.

The President of the Lithuanian Basketball Federation not only failed to condemn these manifestations and attacks but also used racist phrases in an interview with the press. In October 2008, in an interview to media he called dark-skinned players of Kaunas city team “black assholes”. Civil society organisations reported the incident to the law enforcement agency. Investigation had been initiated but shortly terminated. Although the man apologized for his statements, he did not resign and blamed the journalist for recording the conversation. Concerned civil society organisations met with broad societal disapproval for „prosecuting a respected man“.

These and numerous other racist attacks have not been properly investigated and prosecuted. A police investigation into public display of posters with the slogan “No to the culture of black people” in 2008 in Klaipeda was inconclusive. No developments were reported in connection with a number of incidents that occurred in 2007, including: assaults on several foreign students in Klaipeda; a fight in Vilnius between Lithuanian and Nigerian youths; an attack on a man from Ghana two days later in Vilnius; an attack on an Italian exchange student by assailants who believed he was a Muslim; and the December death of a former Somali student at Kaunas Medical University after he was beaten in October,

allegedly because he spoke on television about racial violence he had experienced in the country.

On 11 March 2008 – Lithuanian Independence Day – pro-Fascist youth organized their traditional procession through the main avenue in Vilnius. Since previous demonstrations did not meet any reaction from the state authorities, participants carried flags with swastikas and skulls and repeatedly shouted *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 half-heartedly condemned by top-level state officials. While the police initiated a pre-trial investigation into possible incitement of hatred, attempts were made to mitigate this Nazi incident and even to interpret it as an expression of patriotism.⁷ A few participants of the procession were sentenced; however, a court acquittal was also adopted stating that the slogan *Lithuania for Lithuanians* is not a slogan likely to incite inter-ethnic hostility.⁸ Following these events, a working group for the analysis of issues relating to violence, racism and xenophobia was formed in the Parliament; nevertheless, the majority of draft law amendments and other measures it proposed remain unimplemented. Processions in March 2009 and 2010 included slogan *Lithuania for Lithuanians*.

There were further cases of vandalism against the Jewish community: their graves were desecrated, while Jewish community buildings in Vilnius, Panevezys and Klaipeda were smeared with paint, swastikas and anti-Semitic slogans. Most recent anti-Semitic incident occurred in August 2010 when a pig's head with mock Hasidic style earlocks and black hat was left on the outside doorsteps of the last remaining pre-World War II synagogue in Kaunas.⁹

In May 2010, district court ruled that the swastika is a part of the country's cultural heritage and not a Nazi symbol. That was the judge's conclusion in a case over four men who publicly displayed a swastika during an Independence Day parade in the western Lithuanian city of Klaipeda. The local court ruled that that swastika is a centuries-old symbol that depicts the sun.¹⁰ *IA Regnum* news agency has reported that swastikas have been publicly displayed twice before in Lithuania without any 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.¹¹ The appeal against the ruling of the Klaipeda district court is pending.

⁷ For example, a high ranking official of the Ministry of the Interior claimed that skinhead procession ... was a move of about two hundred people in normal mood from one point to the other while carrying national flags and only few persons shouted racist slogans and thus spoilt the general situation of the 11th of March, which was rather good. Jurate Damulyte, *State Security Department: there exist no organised racist gangs in Lithuania*. www.delfi.lt, 18 March 2008, available at <http://www.delfi.lt/news/daily/lithuania/article.php?id=16370276>

⁸ Tomas Vaiseta, *Lithuania for Lithuanians*, www.lrytas.lt, 28 January 2009, available at <http://www.lrytas.lt/-12331593921231598236-lietuvalietuviams-2-video.htm>

⁹ http://www.alfa.lt/straipsnis/10404584/?Severed.pig.s.head.left.on.synagogue.doorstep=2010-08-24_10-41

¹⁰ <http://www.fightthatred.com/recent-events/national-political-hate/715-lithuanian-court-swastika-a-historic-legacy>

¹¹ <http://www.israelnationalnews.com/News/news.aspx/137650>

The long delayed solution to the issues of Roma social exclusion and cases of exploitation of foreign workers also raise concerns.

Surveys reveal that for a long time the “hierarchy of intolerance” remains the same – Roma, Chechens, refugees and Muslims are the least tolerated thus most vulnerable groups in Lithuania. In recent poll, more than 30 % of respondents indicated that during the last five years their opinion deteriorated about the following groups: Roma, Jehovah witnesses, Muslims, Chechens, refugees, Pakistani’s, Chinese, Hinduists and Buddhists.¹²

1.4.2. On-line Incitement to Hate and Discriminate

Comments inciting hatred proliferated rapidly on the Internet since 2006. The marked increase of online comments expressing hatred for people of other races, ethnic origins or religion shows that the level of society’s intolerance towards certain minorities remains high. These comments were of a spiteful and mocking nature and were also used to prompt others to annihilate particular group of persons physically.

According to data from the Prosecutor General’s Office, 13 criminal cases were referred to court alleging incitement of hatred in the electronic media in 2007. In 2008, 105 pre-trial investigations were launched alleging incitement of hatred, 19 cases were referred to court. In 2009, 51 pre-trial investigation was launched alleging incitement of hatred, 11 cases were referred to court. The majority cases dealt with incitement of hatred in electronic media, others were related to open public places.¹³

At the moment, no state institution is responsible for the monitoring the content of on-line comments. Pursuant to the *Law on the Provision of Information to the Public*, since January 1, 2010 Journalist’s Ethics Inspectorate is to supervise the compliance with legal provisions prohibiting the incitement of hate on grounds of nationality, race, religion, social status or gender in the dissemination of public information, however, in practice, this function is fulfilled only in the investigation of complaints received in relation to comments or articles published on-line.

The gap in monitoring is partially bridged by NGOs and public-spirited individuals who lodge complaints on the incitement of hate to prosecutor’s office, however, these efforts are not sufficient to ensure the prosecution of persons who infringe the law by expressing hate publicly on the Internet.

The qualitative analysis of Lithuanian media content in the texts regarding racial/ethnic minority issues and interracial/ethnic relations brings to light such forms of intolerance, as **hate speech** (by creating a negative image of a minority group, calls to prevent the settlement of an ethnic group in a certain region, alluding to disproportionate representation

¹² 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

¹³ <http://www.prokuraturos.lt/nbspnbspNusikaltimaižmoniškumui/tabid/221/Default.aspx>

in government bodies and educational institutions, discrediting because of relations with foreign political or state structures reproaching for historical crimes and cases of violence); **harassment** (verbal abuse, threats, defiance); **prejudice and stereotypes** (generalizing the characteristics of certain groups and attributing it to individual members of these groups, comparison with other ethnic groups, statements about inadequacy or inobservance of moral norms and presenting a minority group as a criminal group); **“the discourse of silence”** (by not mentioning/omitting the questions relevant to Roma, Polish, Muslim and migrant groups regarding land, property restitution, education, health, housing, living conditions in refugee reception centers; description of problems regarding Roma, Jewish, Polish, Russian ethnic groups associating them with the economic, psychological and political aspects of causality). All the above forms of intolerance have consistently being expressed against the Roma and migrant groups.¹⁴

Public comments inciting hate or fostering negative attitude towards racial/ethnic and religious minorities remains to be a serious problem. The following examples may illustrate the point: a comment made by the politician in the context of public discussion about the Jewish property restitution and dividing Lithuanian nationals into “own“(ethnic Lithuanians) and “other“ (Lithuanian Jews),¹⁵ numerous articles, openly condemning Roma ethnic group,¹⁶ a publication, denying holocaust.¹⁷

1.4.3. Amendments to the Criminal Code

A positive step in terms of countering hate crimes is the adoption in July 2009 of amendments to the *Lithuanian Criminal Code (CC)*, which tighten sanctions for crimes committed on the grounds of sexual orientation, race, other sex, nationality, language, origin, social status, religion or belief.¹⁸

In spring 2009, the first sentence of imprisonment was imposed. Following the attack of a dark-skinned TV entertainer in Vilnius on 9 April 2008, one of Vilnius district courts convicted the accused, and for the first time sentenced her to 43 days of arrest.¹⁹

During 2009-2010, Chapter XXV “*Crimes and Misdemeanors against a Person’s Equal Rights and Freedom of Conscience*” of the *Criminal Code* was substantially amended and now following additional offences are penalized:

14 *Source*: Monika Frejutė-Rakauskienė, Doctoral thesis “Manifestations of ethnic intolerance and xenophobia in Lithuanian press in the framework of European Union preventive policies”, available at <http://www.dart-europe.eu/full.php?id=180425>

15 <http://www.delfi.lt/news/daily/lithuania/opozicija-pirmiau-kompensacijos-pensininkams-ir-darbuotojams-paskui-zydams.d?id=30827193> (2011.01.04)

16 <http://www.delfi.lt/news/ringas/lit/v-laucius-zaliojo-tilto-skulpturos--maskvos-cigonu-ir-geju-labui.d?id=38565929> (2011.01.04); Dumalakas, A. “*France destroys, Vilnius hesitates*” (2010.08.28), *Lietuvos rytas*; Dumalakas, A. “*Roma want money and land*” (2010.09.07), *Lietuvos rytas*

17 Stankeras, P., “*Nuremberg War Crimes Tribunal – the Biggest Legal Farce in History*” (2010.11.14), *Veidas*, available at <http://www.veidas.lt/visuomene/istorija/niurnbergo-karo-nusikaltimu-tribunolas-%E2%80%93-didziausias-juridinis-farsas-istorijoje> (2011.01.05)

18 Law amending Criminal Code, No XI-330, 2009.07.09 (2009.07.23)

19 <http://www.delfi.lt/news/daily/lithuania/article.php?id=22365127> (2011.01.04)

- For the purposes of distribution producing, acquiring, sending, transporting, storing the items ridiculing, expressing contempt for, urging hatred of or inciting discrimination against a group of persons (Article 170 Paragraph 1);
- Creation and Activities of the Groups and Organizations Aiming at Discriminating a Group of Persons or Inciting against It (Article 170 (1));
- Public denial or support of genocide, crimes against humanity and/or war crimes (Article 170 (2)).

On 30 June 2009, amendments to the *Criminal Code*²⁰ which consider racist motivation (*the act has been committed in order to express hatred towards a group of persons or a person belonging thereto on grounds of age, sex, sexual orientation, disability, race, nationality, language, descent, social status, religion, convictions or views*) as a general aggravating circumstance applicable when imposing penalty for all criminal offences (Article 60(1)(12) of the *CC*) and qualifying factor for crimes of murder (Article 129(2)(13) of the *CC*) and severe (Article 135(2)(13) of the *CC*) and non-severe (Article 138(2)(13) of the *CC*) health impairment entered in force. Since the adoption, amendments were not applied.

1.5. Recommendation No. 13

13. The Committee notes that very few cases of racial discrimination have been referred to the courts. According to some information, members of national and ethnic minorities who suffer discrimination do not complain to courts because they fear reprisals and lack confidence in the police and the judicial authorities, and because of the authorities' lack of impartiality and sensitivity to cases of racial discrimination (art. 4 and 6).

The Committee recommends to the State party that it inform victims of racial discrimination of their rights, including remedies available to them, that it facilitate their access to justice and guarantee their right to just and adequate reparation. The State party should ensure that its competent authorities investigate promptly and impartially complaints of racial discrimination and cases in which there are reasonable grounds to believe that acts of racial discrimination have occurred.

In years 2005-2010 the number of complaints submitted to the Office of Equal Opportunities Ombudsperson regarding discrimination on racial or ethnic ground ranges from 15 to 30 complaints per year.²¹

Though the amendments to the Law of Equal Opportunities were adopted in June 2008 to expand the list of protected grounds, adding social status, language and convictions, they did not, however, provide for the competence of the Equal Opportunities Ombudsperson to provide independent assistance to victims of discrimination in pursuing their complaints about discrimination.

²⁰ http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_1?p_id=347281

²¹ Report of the Equal Opportunities Ombudsperson Office, 2009 available at <http://lygybe.lt/?pageid=7> (2010.01.05)

The right for associations to engage in legal proceedings was included into the Law on Equal Opportunities only recently. However, the right is effective due to gaps in other procedural legislation, particularly in the *Code of Civil Procedure*. Furthermore, the requirement to shift the burden of proof in discrimination cases is transposed to the national law only partially, since additional amendments to procedural legislation are needed.

Legally, the Equal Opportunities Ombudsperson has the competence to investigate complaints of discrimination, but her decisions do not have a compensatory effect to the victim. The Ombudsperson has a right to impose administrative sanctions (according to the *Administrative Violations Code*), however they can hardly be considered as of effective and of dissuasive character. Practically, Ombudsperson rarely exercises her rights to impose a fine. Most of the decisions by the Ombudsperson are warnings and recommendations.

In 2010, the European Union Agency for Fundamental Rights has expressed its criticism stating that although Lithuania provides the opportunity to file complaints concerning discrimination on grounds of racial/ethnic origins, these procedures never result in sanctions or compensations but rather in moral pressure and recommendations.

Only in 2008, the Human Rights Monitoring Institute successfully litigated a groundbreaking case which established discrimination of Roma individual in the labour market.²²

In autumn 2007, Saicha Marcinkevič applied for a vacancy of dish cleaner in the restaurant belonging to the Ltd. „Disona“, following the recommendation received from the Lithuanian Labour Exchange. Although assured beforehand on the phone that the position is vacant, she was not accepted after appearing in person. Saicha Marcinkevič was told that the vacancy was filled. After unsuccessful job interview, court bailiff called the restaurant to inquire whether the same position was vacant and received a confirmation. In addition, upon HRMI's request a woman of non-Roma origin requested the same job and was accepted. During the job interview, the restaurant administrator let drop that there was a woman who was sent by the Lithuanian Labour Exchange on the same day, but she was a “gypsy”, and the restaurant staff did not want to work with the “gypsy”, so they could not employ her.

In June 2008, district court recognized the fact of direct discrimination on grounds of ethnic origin and awarded the defendant to pay LTL 864²³ of pecuniary damage and LTL 2000 of non-pecuniary damage to the applicant. The decision was upheld on appeal.

1.6. Recommendation No. 14

14. The Committee is concerned by the new Law on the Legal Status of Aliens which restricts considerably the possibility for asylum seekers to be granted refugee status and only provides them with humanitarian protection (art.5).

²² Saicha Marcinkevič v. Ltd. „Disona“, Civil Case No. 2A-1020- 464/2008

²³ 1 EUR = 3, 4528 LTL

The Committee draws the attention of the State party to its general recommendation 30 on non-citizens and recommends that it ensure that all persons entitled to refugee status under the Convention relating to the Status of Refugees be granted such status. It also recommends to the State party that it enhance the capacity of administrative courts to deal effectively with asylum appeals cases and to provide information thereon in its next periodic report, including statistical data. It also recommends to the State party to ensure that persons granted humanitarian protection have adequate access to social security and health care services.

Article 86 of the *Law on the Legal Status of Aliens*²⁴ provides:

*Refugee status shall be granted to an asylum applicant who, owing to well-founded fear of being **persecuted for reasons of race, religion, citizenship, membership of a particular social group or political opinion**, is outside the country of his citizenship and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country or who, not having a citizenship and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it, unless there are reasons specified by Law. The decision on the granting or refusing to grant refugee status shall be made by the Migration Department.*

Article 87 of the *Law on the Legal Status of Aliens* provides:

*Subsidiary protection may be granted to an asylum applicant who is outside his country of origin and is unable to return to it owing to well-founded fear that: **1) he will be tortured, subjected to cruel, inhuman or degrading treatment or punishment; 2) there is a threat that his human rights and fundamental freedoms will be violated; 3) his life, health, safety or freedom is under threat as a result of indiscriminate violence which emerged during an armed conflict or which creates conditions for systematic human rights violations**. The decision on granting or refusing subsidiary protection to the asylum applicant shall be made by the Migration Department.*

Therefore, the *Law on the Legal Status of Aliens* provides for exhaustive list of grounds upon which refugee status may be granted for asylum seekers, i.e. well-founded fear to be persecuted for reasons of race, religion, citizenship, social group or political opinion. Other grounds, such as torture, inhuman treatment, threat to life of safety, or violations of other fundamental rights, may be a pre-condition only for a subsidiary protection.

According to Article 128(2)(1) of the *Law on the Legal Status of Aliens*,

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

²⁴ *Law on the Legal Status of Aliens*, available in English at http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=356478

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 allows the expulsion of alien prior to consideration of an appeal in cases of alleged threat to national security and public policy, which is incompatible with the right for individual remedy.

Article 71 of the *Law on the Legal Status of Aliens* provides that:

...in the course of examination of an application for asylum in the Republic of Lithuania, the asylum applicant shall have the ... right to receive basic medical aid and social services free of charge at the Foreigners' Registration Centre or Refugee Reception Centre.

Article 94 of the *Law on the Legal Status of Aliens* provides that *aliens who have been granted temporary protection in the Republic of Lithuania shall have the ... right during the temporary protection period to receive basic medical aid and social services.* However, the Law is silent about the provisions of medical aid or social services for the persons granted refugee status or subsidiary protection.

1.7. Recommendation No. 18

18. The Committee remains concerned about the persistence of discriminatory attitudes and hostility towards members of the Roma community throughout the country (art.5).

The Committee, recalling its general recommendation 27 on discrimination against Roma, recommends that the State party continue to endeavour, through a genuine dialogue, to improve relations between Roma communities and non-Roma communities with a view to promoting tolerance and overcoming prejudices and negative stereotypes. The Committee also invites the State party to take more effectively into account the situation of Roma children and women in all programmes and projects planned and implemented and in all measures adopted.

Roma community remains the most vulnerable – marginalized and discriminated - ethnic 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 society²⁵ keep this group locked in social exclusion as is reflected in the fact that 40% of Roma do not know the national language.²⁶ Many Roma do not have identification papers, a number of them are stateless, although born in Lithuania. 46% of

²⁵ Recent public opinion poll indicates that more than half of respondents would not like to live in the neighborhood, to work together, or to let an apartment to Roma people. See, *Public Opinion Poll* (17 July – 2 August 2010), Center for Ethnic Studies, available at <http://www.ces.lt/2010/09/lietuvos-gyventoju-nuomones-apklausa-2010-m-liepos-15-d-rugpjucio-2-d-rezultatai/>

²⁶ *Roma: Situation Assessment*, Human Rights Monitoring Institute, 2005, Vilnius

members of Roma community are youth under 15 years of age.²⁷ This fact can be attributed to the short life expectancy of Roma and the latest tendency of emigration.

The fundamental issues of the Roma integration have not been tackled for a number of years. Instead, the media, politicians and the public continue to escalate prejudices and negative stereotypes about this ethnic minority. In public discourse, Roma are often linked to drug-related criminality, blamed for dependence on social benefits and reluctance to work.²⁸ Vilnius authorities threatened to take away minor children from the Roma residing in Kirtimai compound in Vilnius if they have to live in areas where drugs are dealt.²⁹ Official crime reporting almost never fails to indicate ethnic origins when suspected or accused person is of Roma origin.

In 2008, after long delay³⁰ the Government adopted *Programme for the Integration of Roma into Lithuanian Society 2008-2010*.³¹ The *Programme* clearly identifies major problems of Roma integration but lacks social policy dimension, in a broad sense. The *Programme* focuses on the education of Roma children, youth and adults, Roma inclusion into the labour market, however, fails to pay proper attention to the areas of social support, health care and adequate housing.

Implementation of even minimal in its scope *Programme* was terminated in 2010 due to a lack of financial resources. Furthermore, although initially LTL 1 million was planned to be allocated each year for the implementation of the *Programme*, only LTL 365.000 were received during 2008, and LTL 400.000 during 2009.³²

At the meantime, Ministry of Culture was assigned to prepare the next *Programme for the Integration of Roma into Lithuanian Society 2010-2012*. No information about the progress on developing the programme is publicly available.

²⁷ Social Research Institute, Center for Ethnic Studies, *Assessment of Roma situation: Roma in education and labor market*. 2008

²⁸ Ainis Gurevicius, *Plans to Declare War to the Roma Compound Within a Week*, www.balsas.lt, 17 January 2008, <http://www.balsas.lt/naujiena/179797>; Lina Vysniauskiene, *Roma Compound Still Enjoys Peace*.

Lietuvos ziniuos,

www.balsas.lt, 22 January 2008, <http://www.balsas.lt/naujiena/180270>; Evaldas Utyra. *Compound Slums*

Should be Considered in Court. www.delfi.lt, 29 January 2008, <http://www.tns-gallup.lt/media-intelligence/public/index.php?mod=main&sub=details&id=380933&itd=MzgwOTMzfdG0fDliNTU3N2VIZTM2NzA5NzEzODU0NDY3NTFhNDRkYzg2>; Evaldas Utyra. A. Butkevicius, *The Roma Compound Should be Relocated Away to Mobile Homes*. www.delfi.lt, 14 April 2008, <http://www.tns-gallup.lt/media-intelligence/public/index.php?mod=main&sub=details&id=419693&itd=NDE5NjkzfdG0fDdkYTlZYZg5ZWUwMzY3ODkyMTU1YTdmNmU2NWFmNGU4>

²⁹ Evaldas Utyra, Robertas Narmontas, Martynas Lapinskas, *Roma Compound Children May Find Themselves in State Custody* www.delfi.lt, 6 September 2007, <http://tv.delfi.lt/en/video-rated/FOfUNjDh/?p=30>

³⁰ It took four years for the government to develop and approve a programme intended for continuation of the 2000-2004 Programme.

³¹ *Programme for the Integration of Roma into Lithuanian Society 2008-2010*, approved by the Government of the Republic of Lithuania, No 309, 2008.03.26, (Žin. No 42-1555)

³² <http://www.delfi.lt/news/daily/lithuania/romu-integravimas-i-darbo-rinka-tebera-problematiskas.d?id=32940817>

1.8. Recommendation No. 19

19. The Committee continues to express concern at the marginalization of Roma children in the school system (art.5).

The Committee recommends that the State party ensure the equal enjoyment of the right to education for Roma children. The Committee further recommends that the State party intensify its efforts to raise the level of achievement in schools for Roma children, to recruit additional school personnel from among members of Roma communities to provide for the possibility of bilingual or mother tongue education.

The main reasons influencing Romas' learning difficulties are the lack of social skills, linguistic barrier and poor school attendance.³³ Most Roma children (69%) did not attend either pre-school establishments; participation in afterschool activities is uncommon among them.

Within the annual campaigns *Human Rights Awareness Month* and *Action Week Against Racism*, HRMI organized number of events at different schools in Lithuania aimed at tackling the problem of Roma exclusion. A lot of screening of documentary "Vilnius Ghetto 2009" were organized together with follow-up discussion on the same matters. Teachers and students involved in these activities emphasized a lack of such events and unfamiliarity with Roma issue in Lithuania. Unfortunately, Lithuanian authorities do not support extra-curricular educational events organized by NGOs and thus they are only project-based and therefore short-termed.

1.9. Recommendation No. 20

20. While the Committee recognizes the efforts made in the field of employment – including the recent adoption of the new Labour Code as well as the new Law on Equal Opportunities which provide for enhancing the employment rate without any direct and indirect discrimination -, it is alarmed by the very high rate of unemployment among members of the Roma community (art.5).

The Committee recommends that legislation prohibiting discrimination in employment and all discriminatory practices in the labour market be fully implemented and that further measures be taken, in particular by focusing on professional training, to reduce unemployment among the Roma community.

The situation in the area of Roma employment is particularly adverse. More than half of the Roma community identified themselves as jobless.³⁴ In 2008, only 8,7% of Roma were

³³ Social Research Institute, Center for Ethnic Studies, *Assessment of Roma situation: Roma in education and labor market*. 2008

³⁴ Social Research Institute, Center for Ethnic Studies, *Assessment of Roma situation: Roma in education and labor market*. 2008

legally employed.³⁵ Most of Roma earn income through temporary work or through illegal activities.

The reasons behind these enormous rates of unemployment are numerous:

- most Roma lack education and professional skills – every fifth person, who participated in the survey conducted in 2007 by the Center for Ethnic Studies had no education at all, 17,6% had basic education, 83% had no profession at all;
- level of illiteracy among Roma is very high;
- 38% of Roma have no knowledge of Lithuanian;
- a number of Roma do not have identification papers and/or are stateless;
- potential employers are prejudiced against Roma (almost half of surveyed employers (47%) stated that Roma probably would not be employed by their company).³⁶

A few measures of Roma integration into labour market were conducted in 2007-2008, however, they yielded very modest results.³⁷

1.10 Recommendation No. 21

21. While the Committee notes the re-introduction of “the Programme for the Integration of the Roma into Lithuanian Society”, it reiterates its concern about the isolation of the Roma community in ghetto-like neighborhoods and their critical situation in respect of housing conditions, especially in Vilnius, where most of the Roma community is concentrated (art.3 and 5).

In light of its general recommendation 27, the Committee recommends that the State party effectively implement policies and projects aimed at avoiding segregation of Roma communities in housing, that it involve Roma communities and associations as partners in housing construction, rehabilitation and maintenance projects, and that it dedicate sufficient funding to this aim. Furthermore, the Committee encourages the State party to take into account that for families, and particularly children, living in a proper environment is an essential prerequisite for access to education and employment on an equal footing.

In May 2009, *RAXEN Thematic Study Housing Conditions of Roma and Travellers – Lithuania* was published.³⁸ According to the *Study*, various sources identify two main problems regarding Roma housing issues in Lithuania: (1) the poor quality of existent housing; (2) limited opportunities to legitimize one’s present housing or to change one’s place of residence.

³⁵ Idem.

³⁶ Social Research Institute, Center for Ethnic Studies, *Roma and Employers’ views on Roma Integration to Labour Market*, 2007

³⁷ EQUAL project *Development and Testing of a Mechanism for Roma Integration into the Labour Market* implemented by Lithuanian Children’s Fund with project partners. More about the project: <http://www.lvfi.lt/index.php?pg=.000002578.000002579&lang=1>

³⁸ Information source: *Thematic Study Housing Conditions of Roma and Travellers – Lithuania* // http://www.pedz.uni-mannheim.de/daten/edz-b/ebf/09/Roma%20Housing-Lithuania_en.pdf

Although *Programme for the Integration of Roma People into Lithuanian Society 2008-2010* recognizes the Roma housing problem, it does not include particular measures to solve it. The *Programme of 2008-2010* envisages the collection of information on Roma housing conditions, calls for a qualitative analysis of the legal regulations pertaining to Roma housing and living conditions, and a feasibility study regarding opportunities for the Roma to acquire housing and improve their living situation. However, as indicated earlier, the implementation of the *Programme* was terminated.

The issue of Roma housing 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 settlement remains vague. In 2007 and 2008, the officials of Vilnius Municipality repeatedly called for the forceful relocation of Roma community to either Salcininkai region, or settling the Roma in mobile homes or social housing, however, no programme for solving the housing issues of the Roma residing in Kirtimai settlement was adopted.³⁹

It is doubtful that social housing is an efficient alternative to improve housing situation of Roma living in Kirtimai. Many Roma officially have no permanent place of residence, as they 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.

After years of protracted litigation, on 23 September 2010 the Supreme Administrative Court of Lithuania adopted a decision rejecting the conclusion of the trial court that the applicants' rights to housing have not been infringed as their dwellings were illegal. The Court stated that despite the fact that the houses were not constructed in accordance with legal procedure and did not meet certain requirements, the circumstances of the case demonstrate that the applicants suffered non-pecuniary damage as their right to housing in the most general sense was violated. Furthermore, the Court noted that by destroying the housing in Kirtimai, Vilnius City Municipality exceeded its; moreover, the demolition was carried out in winter time without providing affected families with an alternative housing.

³⁹ 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/ebr/09/Roma%20Housing-Lithuania_en.pdf;

The Court found Vilnius Municipality guilty for the violations and awarded non-pecuniary damage to 20 persons. The amount to be awarded as a non-pecuniary damage ranged between LTL 1,500 and 3,500 (from EUR 435 to 1,014) – quite small amounts.⁴⁰

In 25 June 2009, the Ombudsperson of the Parliament issued a conclusion regarding the complaint of residents of Kirtimai settlement in Vilnius, where the applicants asked for solution to their housing problem. The Ombudsperson found the complaint to be sound and recommended that state and municipal institutions make funding available for the implementation of measures provided for in the integration programmes and should adopt new measures to enable essential changes of current Roma situation. It remains unclear whether the recommendations of the Ombudsperson will be taken into account developing a new Roma integration programme.

1.11 Recommendation No. 23

23. While it notes that the Constitutional Court has been seized of this matter, the Committee is concerned that article 18 (1) of the new Law on Citizenship, which provides that the acquisition of citizenship of another State results in the loss of Lithuania citizenship, only applies to persons who are not of Lithuanian origin (art.5).

The Committee, stressing that deprivation of citizenship on the basis of national or ethnic origin is a breach of the obligation to ensure non-discriminatory enjoyment of the right to nationality, urges the State party to refrain from adopting any policy that directly or indirectly leads to such deprivation. In light of its Recommendation 30 on non-citizens, the Committee wishes to receive detailed information on the future decision of the Constitutional Court.

Following the ruling of the Constitutional Court, legal provision for the loss of Lithuanian citizenship in the case of acquisition of citizenship of another State exclusively by persons of non-Lithuanian ethnic origin has been removed. Therefore, acquisition of citizenship of another State results in the loss of Lithuania citizenship irrespectively of person's ethnic descent.

In 2006, Lithuanian Constitutional Court stated that the Constitution allows double nationality only as a rare exception:

It should be underlined that the provision of Article 12 of the Constitution that a person may be a citizen of the Republic of Lithuania and, at the same time, a citizen of another state only in individual cases established by law, means that such cases established by law can be very rare (individual), that cases of double citizenship must be extraordinarily rare, exceptional, that under the Constitution it is not permitted to establish such legal regulation under which cases of double citizenship would be not extraordinarily rare exceptions, but a widespread

⁴⁰ <http://www.15min.lt/naujiena/aktualu/lietuva/teismas-vilniaus-valdzia-neteisetai-griove-namus-cigonu-tabore-ir-turi-atlyginti-zala-56-117082>

phenomenon.

While assessing the legal regulation established in the Law on Citizenship (wording of 17 September 2002 with subsequent amendments and supplements) which was in effect at the time of consideration of this constitutional case, one is to note that this legal regulation is very controversial, inconsistent and confusing. This law includes a number of provisions which are hardly compatible with each other. Some formulas are ambiguous.

This law is to be corrected in essence.

The current *Law on Citizenship*, which does not allow dual citizenship for Lithuanian citizens, is valid until April 2011.⁴¹ As of 1 April 2011 a new *Law on Citizenship*⁴² comes into effect, extending the list of exceptions allowing dual citizenship.

The question of dual citizenship provoked heated discussions in society and Parliament, with occasional reprehensible expressions illustrating exclusivist and racial attitudes. During parliamentary debates, one of the MPs stated: “....*I want to say that I do not want negroes to play in Lithuanian football or basketball national teams. I want those teams to be composed of Lithuanians.*“

1.12 Recommendation No. 24

24. The Committee notes with concern that Lithuania is a country of transit for the trafficking of women and girls, in particular non-citizens, for the purpose of sexual exploitation (art.5 and 6).

The Committee recommends to the State party that it strengthen ongoing efforts to prevent and combat trafficking and provide support and assistance to victims, wherever possible in their own language. Furthermore, the Committee urges the State party to undertake prompt and impartial investigations with a view to prosecuting the perpetrators.

In 2009, the government adopted *the State Programme of Prevention and Control of Human Trafficking 2009-2010* (thereinafter – *Programme*). Though the *Programme* provides for changes in policies against human trafficking, including “higher attention to a work of pre-trial investigation officers”, “rapid and effective crime detection”, “witnesses’ protection”, “effective international cooperation”, and “adequate help for the victims”, in fact they remain largely unimplemented.

No funding had been used for the implementation of the *Programme* in 2009. In June 2010, it was decided to buy the services from NGOs which provide psycho-social counseling to the victims of human trafficking (psycho-social counseling to victims of human trafficking is being provided by NGOs exclusively). Although formally the witness

⁴¹ http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=389251&p_query=&p_tr2=

⁴² http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=387811&p_query=&p_tr2=

protection programme exists, in fact it is not available to victims of human trafficking. Pre-trial investigation phase in human trafficking cases remains lengthy – commonly up to 3-4 years. One of the reasons behind this is the negative attitude of police investigators towards victims.

Negative experiences of cooperation with law enforcement officers is one the main reasons why victims of human trafficking and sexual exploitation are reluctant to turn to law enforcement institutions. This, in turn, does not allow accurate statistics - real numbers of victims are not known.

According to the survey conducted by Vytautas Magnus University, Lithuania is increasingly becoming a sex tourism country.⁴³ Unofficial statistics show that tourists seeking intimate relations or establishing such during their visits account for 10% of all tourists coming to Lithuania. The image of ‘sexual’ Lithuania is shaped both online where a number of websites for sex tourists operate, and in publications advertising Lithuania that offers ‘Lithuanian products’ – nature, history and girls – to tourists.

1.13 Recommendation No. 26

26. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention, and reiterates its recommendation that it consider the possibility of doing so. It also recommends to the State Party that it ratify Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms.

Lithuania has not made the optional declaration provided for in Article 14 of the Convention, and has not signed and ratified Protocol No. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Additionally, Lithuania is not party to the European Charter for Regional or Minority Languages, UNESCO Convention against Discrimination in Education, International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, Convention on the Participation of Foreigners in Public Life at Local Level, and European Convention on Nationality, although the Constitutional Court has relied on the last Convention while ruling on compatibility of the *Citizenship Law* with the Constitution.

1.14 Recommendation No. 27

27. The Committee strongly recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 59/176 of 20 December 2004, in which the Assembly strongly urged States parties to

⁴³ Neringa Bereisyte, Arturas Tereskinas, *Lithuania: Paradise of Sex Tourism?*, Delfi.lt, 1 August 2008, <http://www.delfi.lt/news/daily/lithuania/article.php?id=17920809&categoryID=7>

accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

Lithuania has not signed and ratified the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992.

PART II – ADDITIONAL ISSUES OF CONCERN

2.1. Article 5 (d)(ix)

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

...

(d) Other civil rights, in particular:

...

(ix) The right to freedom of peaceful assembly and association;

In March 2009, the Human Rights Monitoring Institute and the Centre for Equality Advancement (thereinafter – LGPC) 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 wish 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 (on March 11, 1990) and support free, democratic and respectful of human rights Lithuanian State.

After two sittings of the events coordination commission, attended by representatives of HRMI and LGPC, on March 10 Vilnius municipality refused to issue a certificate for the event on the unsubstantiated grounds 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 supported 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.

In September 2009, Vilnius district court rejected HRMI and LGPC claim, and in September 2010 an appeal was rejected by Vilnius Regional Court. In December 2010, the Lithuanian Supreme Court accepted an appeal from HRMI, and currently the case is pending before Lithuanian Supreme Court.

2.2. Ethnic Minorities: current debate

Decisions on national minorities' policies are commonly adopted on *ad hoc* basis, without a clear sense policy direction or a precise goal to be achieved.

The Parliament deliberates an amendment to the *Law on Education*, which *inter alia* would increase the number of subjects taught in Lithuanian language in schools teaching in national minorities' languages.⁴⁴ The proposed amendment was strongly opposed by the national minorities groups.⁴⁵ One of the reasons for the opposition is that introduction of amendments was not discussed – as commonly happens – with representatives of national communities. The final vote in plenary session of Parliament is expected to be taken in 2011.

In 2009 and 2010, the issue of personal name spelling reemerged. For the last twenty years Polish minority demands official spelling of their personal names in native language. Although no rational argument against native spelling within Latin alphabet exists, in 2010 the Parliament rejected the draft law,⁴⁶ providing for the right to spell personal names in accordance with the rules of native languages operating within the Latin alphabet. Moreover, the Constitutional Court reiterated that personal names of Lithuanian nationals, irrespectively of their ethnic origin, should be spelled in Lithuanian. At the same time, even more puzzling was the statement by the Constitutional Court that, upon request, personal name of a person belonging to a national minority can be spelled in her native language on one of the secondary pages of her passport.

The Polish community in Lithuania, living in the Vilnius Region (over 60% of the total population), the Šalčininkai Region (80%) and the Švencionys Region (over 28%) had also 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 cases⁴⁷ ruled that street names in the Vilnius Region should be spelled exclusively in 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.

⁴⁴ http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_1?p_id=388723&p_query=&p_tr2=

⁴⁵ http://www.alfa.lt/straipsnis/10429754/?Lenkai.ir.rusai.reikalavo.laisves.mokytis.-gimtaja.kalba.papildyta.=2010-12-13_14-34 (2011.01.05).

⁴⁶ *Draft Law on Spelling of Names and Last names in Official Documents*, No XIP-1644(2), 2010.03.29. The Draft law rejected in 2010.04.08.

⁴⁷ Decision No. A-261-997/2009, Lithuanian Supreme Administrative Court; Decision No. A-756-152/2009, Lithuanian Supreme Administrative Court.

The draft law on Jewish property restitution was registered in the Parliament in summer 2009, and is still pending, even though the Prime Minister and the Minister of Justice warranted the rapid process of law adoption.⁴⁸

⁴⁸ <http://www.delfi.lt/news/daily/lithuania/rsimasius-butu-sveika-zydu-turto-kompensavimo-klausimo-imitis-kuo-greiciau.d?id=26844691>, 2011.01.04;
<http://www.delfi.lt/news/daily/lithuania/article.php?id=29938549&rsslink=true> (2011.01.04)