



**Lithuanian Centre for  
Human Rights**



**CENTER FOR  
EQUALITY  
ADVANCEMENT**

**Center for Equality Advancement**



**Roma Community Center**

**Shadow Report to UN CEDR in response to the Lithuanian Government's fourth and fifth  
periodic reports due in 2008**

Submitted by:

Coalition of the Lithuanian  
Centre for Human Rights,  
Center for Equality  
Advancement and Roma  
Community Center  
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### About the Coalition

The report is submitted by the coalition of 3 organisations: NGO “Center for Equality Advancement”, NGO “Lithuanian Centre for Human Rights and public entity “Roma Community Center”. The members of the coalition are long-term partners working on different issues relating to monitoring, human rights education, social inclusion of minorities, advocacy, etc. All the organisations are members of the European Network Against Racism. Lithuanian Centre for Human Rights has been submitting shadow reports on “Racism in Lithuania” to ENAR since 2005 and has a long experience of monitoring and human rights education in cooperation with Center for Equality advancement and the Roma Community Center.

### General Information

Address: Gedimino pr. 10/1, LT-01103, Vilnius, Lithuania, Contact: [birute@lchr.lt](mailto:birute@lchr.lt)

## Summary

The Lithuanian Government does not pay serious attention to the independent monitoring institutions and repeating recommendations to allocate money to the implementation of human rights, strengthening the human rights existing institutions or creating a permanent National Human Rights Institution.

Lack of inter-relations between human rights institutions and their efficiency does not ensure a sufficient policy development.

There is not sufficient data to draw conclusions on how many people suffer racist violence in Lithuania, nevertheless the trends show that there is not enough political will to implement strategic developments in the sphere of implementation of the Convention: all the human rights institutions in Lithuania had faced significant cuts of their budget even when the economy is about to revive, different Governmental programmes and strategies remain unimplemented arguing that the budget cuts were introduced because of economic recession, nevertheless it is one of the spheres that suffers most from under financing and goes through disproportionate cuts.

A lot of institutions that used to deal with the integration of ethnic minorities, policy developments in the field of implementation of the Convention have been abolished and the programmes or strategies were either closed or did not receive sufficient funding:

- The Department of Ethnic Minorities; the Department of Migration;
- The Department of national minorities and Lithuanians Living Abroad (previously responsible for implementing the government policy on national minorities in Lithuania) ceased to exist and its' functions related to the national minorities were transferred to the Ministry of Culture;
- Roma integration programme for 2008-2010 was terminated at the beginning of 2010, without even allocating sufficient funds for its' implementation in 2008 and 2009;
- Neither the Strategy on the Development of the National Minority Policy until 2015<sup>1</sup> nor the National Anti-discrimination Programme for 2009 – 2011 are being fully implemented as the funds are not allocated for their implementation or there is even a lack of direct actions developed for their implementation;
- The Special Investigation Department of the Prosecution Office that was responsible for the investigation of crimes against humanity and war crimes and crimes and misdemeanors against a person's equal rights and freedom of

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<sup>1</sup> Lietuvos Respublikos Vyriausybės nutarimas „Dėl Tautinių mažumų politikos plėtros iki 2015 m. strategijos patvirtinimo“, 2007 m. spalio 17 d. Nr. 1132.  
[http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=307551&p\\_query=&p\\_tr2=](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=307551&p_query=&p_tr2=), accessed August 10, 2010.

conscience was abolished, referring all of them to one person transferred to the general department of Pre-trial investigations<sup>2</sup>

The State report says: that there is almost no discrimination on accounts of race, religion, ethnicity, etc.

According to the opinion of the reporting NGOs, it is hard to assess the official data of racist violence and racist discrimination because of the lack of official sources available. The European Monitoring Centre on Racism and Xenophobia named Lithuania as one of the countries having 'limited' official data collection mechanisms in place, which either tended to focus on a limited number of investigations and court cases or collected information more generally on discrimination rather than on racist violence and crime. It would seem to indicate that the problem is neglected<sup>3</sup>.

The lack of interest of the State in ensuring the full implementation of the Convention can be illustrated also by the to submit the fourth and fifth periodic report on implementation of the International Convention on the Elimination of All Forms of Racial Discrimination as recommended by the Committee on the Elimination of Racial Discrimination in 2008, when it was foreseen.

#### **A. Demographic, ethnic and religious composition**

There is a lack of comprehensive data on the composition of society and communities vulnerable to discrimination in Lithuania that produces a barrier to assess the real situation of particular minorities<sup>4</sup>. The Committee on the Elimination of Racial Discrimination (CERD) emphasized this particular issue in its Concluding observations regarding the second and third periodic reports of Lithuania<sup>5</sup> calling it impeding the assessment of progress of the elimination of discrimination based on race, colour, national or ethnic origin. In 2009, the Equal Opportunities Ombudsperson prepared a national action plan of equality data management. Hopefully, if the plan is implemented, the situation of access to equality statistics will improve in the near future.

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<sup>2</sup> Official Website of the Prosecutor General's Office: "*In order to optimize the functions and structure of the Prosecutor General's Office, the Special Investigations Departments is abolished from 17<sup>th</sup> January, 2011.*". Available in Lithuanian only: <http://www.prokuraturos.lt/nbspnbspNusikaltimai%C5%BEmoni%C5%A1kumui/tabid/221/Default.aspx>

<sup>3</sup> European Monitoring Centre on Racism and Xenophobia, 'The Annual Report on the Situation regarding Racism and Xenophobia in the Member States of the EU', Summary, 2006. [http://fra.europa.eu/fraWebsite/attachments/ar06p2\\_en.pdf](http://fra.europa.eu/fraWebsite/attachments/ar06p2_en.pdf), accessed 15th May, 2010. P. 15

<sup>4</sup> European Network Against Racism Shadow report "Racism in Lithuania 2008". p. 3

<sup>5</sup> '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'. p. 1. *Concluding observations of the Committee on the Elimination of Racial Discrimination, Sixty-eighth Session*, 20 February-10 March 2006, CERD/C/LTU/CO/3, 11 April 2006. [http://www.unhcr.ch/tbs/doc.nsf/385c2add1632f4a8c12565a9004dc311/67f24838b6b5d369c1257162003d57f0/\\$FILE/G0641244.pdf](http://www.unhcr.ch/tbs/doc.nsf/385c2add1632f4a8c12565a9004dc311/67f24838b6b5d369c1257162003d57f0/$FILE/G0641244.pdf), accessed 10 July, 2010.

Thereby, the record of 2001 population census<sup>6</sup> remains the most reliable equality data which is no longer accurate though, due to significant emigration numbers to other EU countries<sup>7</sup>. However, it does help to perceive Lithuania as a homogenous country, where Lithuanians account for more than 80% of the population, while only 29 nationalities account for one hundred or more people. Citizens of Polish and Russian nationality are the largest minorities, Poles making up 6.7%, Russians 6.3%, although there are some regional exceptions<sup>8</sup>, where ethnic minorities form a majority of the population. The same applies to religion and beliefs. 79% of the population consider themselves as Roman Catholics, 9.5% are irreligious, 4% are Orthodox and 7.5 % belong to other religious communities<sup>9</sup>.

Herein, it is important to mention that the given composition of the population determines certain intolerance-related problems in the country. Stereotypes and prejudice persist to be an issue to some particular minority groups. As revealed by public opinion surveys, the “hierarchy of intolerance” remains the same - Roma, Chechens and refugees, some of the smallest minorities, are the least tolerated thus the most discriminated groups in Lithuania. In 2010, the Centre of Ethnic Studies (Institute for Social Research) carried out a public opinion survey, which revealed that more than half of Lithuanians would not want to live near a Roma person. A large part of the Lithuanian population did not want their neighbours to be Jehovah's Witnesses (43.2%), Chechen (40.5%), Muslims (38.8%) or refugees (38.3%). One-third of survey respondents tend to avoid neighbourhoods with Pakistanis, Hindus, Buddhists, dark skinned people and Chinese. Every fourth Lithuanian citizen did not want to live near Jewish, Kazakh, Turkish or other ethnicities<sup>10</sup>.

In Lithuania, unfavourable treatment is faced by persons belonging to various national, ethnic or religious groups. Historically it is the Jewish and Roma minorities, each representing less than 0,4% of the population, who have in different ways been the most vulnerable to prejudice and discrimination. Anti-Semitism remains an issue, although the Lithuanian Jewish community consists of only about 3,000 members.

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<sup>6</sup> Statistikos departamentas prie Lietuvos Respublikos Vyriausybės, 2001 gyventojų surašymo duomenys, <http://www.stat.gov.lt/lt/pages/view/?id=11988>, accessed 15 June, 2010

<sup>7</sup> Statistics of Lithuania, based on the data of the declaration of the place of residence and results of the survey on undeclared emigration, has estimated the number of residents of the Republic of Lithuania who emigrated in 2009. Last year, 34.7 thousand residents of the country emigrated, which is 1.5 times more than in 2008. Over the past nine years, 253.6 thousand residents emigrated from Lithuania.

<sup>8</sup> As exceptions to this statement must be mentioned Vilnius region municipality (76,5 per cent of the population are not Lithuanians, 61,3 per cent of the population are Polish), Salcininkai region municipality (88,6 per cent of the population are not Lithuanians), Visaginas city (79 per cent of the population are not Lithuanians, 52,4 per cent of them are Russians), Vilnius city (57,8 per cent of the population are Lithuanians, 18,7per cent are Poles and 14per cent – Russians).

<sup>9</sup> ENAR Shadow report 2009/2010, Racism and Discrimination in Lithuania, Gediminas Andriukaitis and Nerijus Kliukas, Lithuanian Centre for Human Rights, unpublished version.

<sup>10</sup> Centre of Ethnic Studies of Lithuanian Social Research Centre, Public opinion survey 2010, [http://www.ces.lt/wp-content/uploads/2010/09/LSTC\\_ETI\\_2010\\_LT-gyvent\\_apklausa\\_socdinstanc.pdf](http://www.ces.lt/wp-content/uploads/2010/09/LSTC_ETI_2010_LT-gyvent_apklausa_socdinstanc.pdf) , accessed September 29, 2010.

No violent anti-Semitic attacks against individuals were reported in the past few years; anti-Semitism was widely manifested on the Internet, though<sup>11</sup>.

Lithuanian Roma community, in comparison to other ethnic groups, is more visible in Lithuania, therefore it may be regarded as probably the most vulnerable to discrimination. Certain segments of Roma community suffer exclusion from public life and the labour market as well as experiencing housing and health problems. 46% of the Roma community are aged under 15. This can be attributed to their migration patterns and due to their short life expectancy because of their quality of living. Their societal integration is complicated due to the fact that 40% do not know the state language, only 17% possess higher education and, most importantly, only 8.7% are legally employed<sup>12</sup>.

The Roma community experiences demonstrative discrimination in different spheres of life. Besides that, recent events have suggested that the visually different minorities, still few in numbers, are even more exposed to racist violence.

## **B. International commitments**

Although it is stated in the official report submitted by Lithuania that the country is open to all mechanisms applied by international organizations to monitor the situation in the field of human rights, it should be noted that neither governmental bodies, nor NGOs have permanent monitoring mechanisms for racist practice in Lithuania. Therefore the information reflecting the present situation must be taken from various sources. However there are some mechanisms that are still not in place in Lithuania.

As CERD noted in its' concluding observations in 2006, Lithuania hasn't established a National Human Rights Institution: "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". The situation has not changed since 2006 and the State did not even consider the possibility to establish the National Human Rights institution and the existing human right bodies suffer from the severe budget cuts and also lack efficiency.

Besides it, Lithuania has not yet followed another recommendation from Committee on the Elimination of Racial Discrimination to ratify Protocol No.12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms<sup>13</sup>. It

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<sup>11</sup> ENAR Shadow report 2009/2010, Racism and Discrimination in Lithuania, Gediminas Andriukaitis and Nerijus Kliukas, Lithuanian Centre for Human Rights, unpublished version.

<sup>12</sup> Romų padėties tyrimas: Romai švietimo ir darbo rinkos sankirtoje, Socialnių tyrimų instituto etninių tyrimų centras, 2008 gruodis.

would give an opportunity to expand protection of human rights in all social life areas.

There are many international agreements that Lithuania is a part of, nevertheless their implementation is not effective as neither Lithuania's human rights bodies are involved in active formation of the human rights policy developments and monitoring, nor there is an action plan how to develop protection of human rights in general.

Moreover, Lithuania has never included discussions to ratify International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The European Economic and Social Committee and the European Parliament considered the adoption of the Convention as the best way to recover human capital which is, as Lithuania also noted, is the biggest problem recent years. Meanwhile, European Parliament considers that, in order to encourage the social and political integration of migrant workers, they should be granted equivalent rights; calls, therefore, on the Member States, the Commission and the Council to take all necessary steps to ensure recognition of the right of migrants who have been continuously resident in the Union for at least five years to vote in local and European Parliament elections<sup>14</sup>. In the report Lithuania mentioned that the main reason for decrease of the population is the emigration of young people. Lithuania recognizes the reasons, but it does not take active role to implement decisions to solve the problem of decrease of young inhabitants in this Lithuania, particularly migrants who are skilled or highly qualified workers. "Brain drain" is one of the most harmful effects of migration for the developing countries. One of the first steps to ensure the effective protection of the rights of migrant workers and to solve the existing problems caused by increased migration flow is to ratify and implement the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Furthermore, "the budget cuts in 2009 also affected the structure of the Ministry of Interior Affairs (the main institution responsible for the national migration and asylum policy). Its Department of Migration Policy was abolished, and its functions were transferred to a newly established Division of Migration Affairs, within the Department of Public Security Policy. The human resources of the new division were reduced<sup>15</sup>. As Lithuania does not have a coherent migration policy, such changes in the structure of the main governmental body responsible for these matters seem to be the opposite of the necessary steps to be taken. A number of amendments to the

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<sup>13</sup> § 26, Concluding observations of the Committee on the Elimination of Racial Discrimination, Lithuania, No. CERD/C/LTU/CO/3 (11 April 2006).

<sup>14</sup> European Parliament resolution on an EU approach to managing economic migration; <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2005-0408+0+DOC+XML+V0//EN>, accessed February 2, 2010

<sup>15</sup> Vidaus reikalų ministerijos Valdymo tobulinimo komisijos veiklos rezultatai, available in Lithuanian at: [http://www.vrm.lt/fileadmin/Padaliniu\\_failai/Rysiu\\_su\\_visuomene\\_sk/visokie/pasiulymai/rezultatai-VTK-2009.doc](http://www.vrm.lt/fileadmin/Padaliniu_failai/Rysiu_su_visuomene_sk/visokie/pasiulymai/rezultatai-VTK-2009.doc) (15.09.2010)

main pieces of legislation related to migration, asylum and integration of refugees were adopted in 2009: the Law on the Legal Status of Aliens was amended and the Order of the State Support for Integration of Foreigners Granted Asylum were amended in July. However, these amendments dealt exclusively with procedural matters and had no significant influence on the scope of rights of foreign nationals in Lithuania<sup>16</sup>.

Besides it, surveys revealed, that the general public opinion towards refugees in the country is negative. In December 2009, the Lithuanian Institute of Consumer Protection published the findings of a study on the tolerance of refugees within Lithuanian society. The study analysed the portrayal of refugees by the media and presented the findings of a representative survey of Lithuanian citizens. The respondents of the survey, when asked to evaluate the impact of refugees for the future of Lithuania, were mostly negative. 75 % of them claimed that the increase in the number of refugees might lead to increased crime. More than 70% stated that it would cause a rise in taxes because more money would be needed to support refugees. Only 25% of respondents agreed that refugees could enrich our culture with their own customs and ideas; and only 16 % believed that refugees could start business in Lithuania and thus create new workplaces.<sup>17</sup>

### **C. New and amended national legislation**

Despite the effort to meet the requirements of international organizations by forming certain laws in the national legislation, the current situation proves lack of attention towards further exercising of these laws. As mentioned in the official state report, a number of national legal acts were passed and/or amended to implement articles 2 to 7 of the International Convention on the Elimination of All Forms of Racial Discrimination during the period of 2004-2007. One of the most significant of those, the Law on Equal Treatment, came into force on 1 January 2005 and was designed to implement the EU Anti-discrimination directives (Race Equality Directive 2000/43/EC, Employment Equality Directive 2000/78/EC) into the national legislation. The period to implement the Race Equality Directive 2000/43/EC<sup>18</sup> passed for Lithuania in 2005, however, it can be argued whether the current wording of the national legislation fully implements the requirements of the EU anti-discrimination law.

First and foremost, the requirement of the Race Equality Directive regarding the engagement of associations in judicial proceedings on behalf of or in support of the victim has not been sufficiently transposed in Lithuania. This provision of the Directive was formally incorporated in the Law on Equal Treatment in June 2008.

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<sup>16</sup> ENAR Shadow report 2009/2010, Racism and Discrimination in Lithuania, Gediminas Andriukaitis and Nerijus Kliukas, Lithuanian Centre for Human Rights, unpublished version.

<sup>17</sup> Lietuvos vartotojų institutas (2009), *Pabėgėliai: tolerancijos atspindys tyrimuose*

<sup>18</sup> Council Directive 2000/43/EC of June 29, 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Official Journal of the European Communities, L 180/22.



However, it cannot be regarded as effective in practice, considering the legal gaps in procedural legislation – the Code of Civil Procedure does not mention the right for associations to engage in judicial process. The present law also limits the number of NGOs, which in theory could act in legal proceedings on behalf of the victim for those associations who have a provision in their foundation documents that the representation of victims of racial or ethnic discrimination at courts is within their scope<sup>19</sup>. It is questionable whether any national level NGO fully matches the given criteria currently<sup>20</sup>.

Secondly, one of the major issues for victims of discrimination – the efficacy of sanctions – remains unsolved in the legislation. Only in June 2008 the right to claim compensation for racial discrimination was introduced in the Law on Equal Opportunities of Women and Men. This is the only provision, which could be regarded as effective and compensatory, if only applied properly. The national anti-discrimination law offers no other provisions of this character. Legally, the Ombudsperson has the competence to investigate complaints on discrimination, but its decisions do not have a compensatory effect to the victim. The Ombudsperson is empowered to impose administrative sanctions (according to Administrative Violations Code), although they can hardly be regarded as effective, proportionate and dissuasive. Moreover, the Ombudsperson rarely issues fines as an administrative sanction<sup>21</sup>. The decisions of the Ombudsperson are mostly warnings of recommendatory character<sup>22</sup>. The relevance of this issue was also stressed by the EU Fundamental Rights Agency<sup>23</sup>.

One of the positive initiatives of the Ombudsperson in 2009 was the establishment of a draft national action plan for equality data collection. It identified a need for such data as well as clearly stated, that current statistical data, which is available, is very limited. The Ombudsperson recommended the government to set up a national action plan for the collection of equality data 2011-2014<sup>24</sup>. Whether the plan will be exercised in practice, remains a question<sup>25</sup>.

### **III. Information on the implementation of individual articles of the Convention**

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<sup>19</sup> Lietuvos Respublikos moterų ir vyrų lygių galimybių įstatymas. Official publication, *Valstybės Žinios*, 1998, Nr. 112-3100. [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=312549](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=312549), accessed August 6, 2010.

<sup>20</sup> ENAR Shadow report 2009/2010, Racism and Discrimination in Lithuanian, Gediminas Andriukaitis and Nerijus Kliukas, Lithuanian Centre for Human Rights, unpublished version.

<sup>21</sup> In 2008 no decisions to issue a fine as an administrative sanction were taken by the Ombudsperson.

<sup>22</sup> However perpetrators tend to observe it and usually stop discriminatory actions or behaviour.

<sup>23</sup> European Union Agency of Fundamental Rights Annual Report 2008, p. 7, 17, 18, [http://fra.europa.eu/fra/material/pub/ar08/ar08\\_en.pdf](http://fra.europa.eu/fra/material/pub/ar08/ar08_en.pdf), accessed August 10, 2010.

<sup>24</sup> Equal Opportunities Ombudsperson, Annual report for 2009, available in Lithuanian at [www.lygybe.lt](http://www.lygybe.lt).

<sup>25</sup> ENAR Shadow report 2009/2010, Racism and Discrimination in Lithuanian, Gediminas Andriukaitis and Nerijus Kliukas, Lithuanian Centre for Human Rights, unpublished version.

## Article 2

Although fighting racism and discrimination has never been a priority in the governments' political agenda, due to pressure from the EU as well as other international organisations, some action was taken. However, by reason of the economical downturn, which dramatically hit the country during the second half of 2008, the governments' social policies were severely affected. Thus, it is not surprising, that rather modest policy measures, tackling racism, discrimination and social exclusion almost became invisible. Drastic cuts to budgets halted any progress reached in previous years<sup>26</sup>. This section of the report will highlight some of these consequences.

### i. Anti discrimination

At the beginning of 2009, the government adopted a National Anti-discrimination Programme for 2009 – 2011<sup>27</sup>, which is the continuation of the previous programme, aimed at tackling discrimination. Although the programme does identify a lot of major issues, concerning discrimination on various grounds (including ethnicity and race), the scope of the programme was very modest. It aimed to carry out new research in the field of discrimination, to raise awareness among society, to organise social-campaigns and trainings aimed at tackling discrimination, to support the activities of non-governmental organisations, who are dealing with discrimination and to review and amend (if necessary) existing legislation on anti-discrimination<sup>28</sup>. It is rather obvious, that none of the previously mentioned aims could be reached during 2009, because of the obvious reason – only slightly more than 10% of the initial budget, planned for 2009, was actually allocated to the programme.<sup>29</sup> Thus it is not surprising, that neither new research in the field, nor developments in the national legal system took place. No funding reached NGOs working in the field of anti-discrimination. The Office of the Equal Opportunities Ombudsperson received most of the allocated funds, thus its activities were slightly more visible, although the scale was also very limited<sup>30</sup>.

It is not known what exact steps were taken, to review existing anti-discrimination law. However, bearing in mind no funding was allocated, the organisations

<sup>26</sup> ENAR Shadow report 2009/2010, Racism and Discrimination in Lithuania, Gediminas Andriukaitis and Nerijus Kliukas, Lithuanian Centre for Human Rights, unpublished version.

<sup>27</sup> The draft of the programme was approved in 2009. Lietuvos Respublikos Vyriausybės nutarimas "Dėl Nacionalinės antidiskriminacinės 2009-2011 m. programos patvirtinimo, 2009 m. balandžio 15 d. Nr. 317.  
[http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=342654&p\\_query=durbano&p\\_tr2=2](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=342654&p_query=durbano&p_tr2=2), accessed May 15, 2010.

<sup>28</sup> ENAR Shadow report 2009/2010, Racism and Discrimination in Lithuania, Gediminas Andriukaitis and Nerijus Kliukas, Lithuanian Centre for Human Rights, unpublished version.

<sup>29</sup> Koordinuojančios institucijos ataskaita apie tarpinstitucinės programos įgyvendinimą, pagal gautą informaciją per 2009 m. ataskaitinį laikotarpį, Nacionalinė anti-diskriminacinė 2009-2011 m. programa. (Report on the implementation of National anti-discrimination programme for 2009). Available in Lithuanian at <http://www.socmin.lt/index.php?2021157222>

<sup>30</sup> ENAR Shadow report 2009/2010, Racism and Discrimination in Lithuania, Gediminas Andriukaitis and Nerijus Kliukas, Lithuanian Centre for Human Rights, unpublished version.

submitting this report dare to believe that there were no pro-active actions taken.. The Law on Equal Treatment came into force on 1 January 2005 and was designed to implement the EU Anti-discrimination directives (Race Equality Directive 2000/43/EC, Employment Equality Directive 2000/78/EC) into the national legislation. The period to implement the Race Equality Directive 2000/43/EC<sup>31</sup> passed for Lithuania in 2005, however, it can be argued whether the current wording of the national legislation fully implements the requirements of the EU anti-discrimination law<sup>32</sup>.

First of all, the requirement of the Race Equality Directive regarding the engagement of associations in judicial proceedings on behalf of or in support of the victim has not been sufficiently transposed in Lithuania. This provision of the Directive was formally included into the Law on Equal Treatment in June 2008. However, it cannot be considered effective in practice, bearing in mind the legal gaps in procedural legislation – the Code of Civil Procedure does not mention the right for associations to engage in judicial process. The current law also limits the number of NGOs, which in theory could engage in legal proceedings on behalf of the victim to those associations who have a provision in their founding documents, that the representation of victims of racial or ethnic discrimination at courts is their field of work<sup>33</sup>. It is doubtful, that at present there are such NGOs at national level that could fully match the criteria<sup>34</sup>.

Secondly, one of the major issues for victims of discrimination – the effectiveness of sanctions – remains unsolved. The right to claim compensation for racial discrimination was introduced in the Law on Equal Opportunities of Women and Men only in June 2008. This is the only provision, which, if properly applied, could be considered effective and compensatory. There are no other provisions of this character in national anti-discrimination law. Legally, the Ombudsperson has the competence to investigate complaints on discrimination, but its decisions do not have a compensatory effect to the victim. The Ombudsperson has a right to impose administrative sanctions (according to Administrative Violations Code), however they can hardly be considered to be of an effective, proportionate and dissuasive character. Additionally, the Ombudsperson rarely issues fines as an administrative sanction<sup>35</sup>. Mostly the decisions of the Ombudsperson are warnings of a recommendatory character<sup>36</sup>. This issue was also stressed by the EU Fundamental Rights Agency<sup>37</sup>.

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<sup>31</sup> Council Directive 2000/43/EC of June 29, 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Official Journal of the European Communities, L 180/22.

<sup>32</sup> ENAR Shadow report 2009/2010, Racism and Discrimination in Lithuanian, Gediminas Andriukaitis and Nerijus Kliukas, Lithuanian Centre for Human Rights, unpublished version.

<sup>33</sup> Lietuvos Respublikos moterų ir vyrų lygių galimybių įstatymas. Official publication, *Valstybės Žinios*, 1998, Nr. 112-3100. [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=312549](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=312549), accessed August 6, 2010.

<sup>34</sup> ENAR Shadow report 2009/2010, Racism and Discrimination in Lithuanian, Gediminas Andriukaitis and Nerijus Kliukas, Lithuanian Centre for Human Rights, unpublished version.

<sup>35</sup> In 2008 no decisions to issue a fine as an administrative sanction were taken by the Ombudsperson.

<sup>36</sup> However perpetrators tend to observe it and usually stop discriminatory actions or behaviour.

<sup>37</sup> European Union Agency of Fundamental Rights Annual Report 2008, p. 7, 17, 18, [http://fra.europa.eu/fra/material/pub/ar08/ar08\\_en.pdf](http://fra.europa.eu/fra/material/pub/ar08/ar08_en.pdf), accessed August 10, 2010.

The Ombudsperson for Equal Opportunities is the main national anti-discrimination body, founded in order to fulfil the requirements of the Racial Equality Directive. When the Law on Equal Treatment came in force in 2005, it expanded the mandate of the previous Ombudsperson for Equal Opportunities for Men and Women. Thus a new institution – the Ombudsperson – covering all grounds of discrimination, embodied in directives 2000/43/EC, 2000/78/EC and gender ground, came into being on 1 January 2005. However, as an equality body the Ombudsperson still lacks particular features that are foreseen by the Racial Equality directive<sup>38</sup>.

According to the law, providing independent assistance to victims of discrimination in pursuing their complaints on discrimination, as foreseen by Article 13 of the Racial Equality Directive, bringing discrimination complaints or intervening in legal cases does not fall under the competence of the Ombudsperson. These activities are also not exercised in practice. In July 2009 the competence of the Ombudsperson was expanded to include the implementation of independent research, related to complaints of discrimination, drafting of independent reports and providing an overview on discrimination in general. Thus, this particular field of competence is rather new and not well developed (no theme-specific or any other reports were drafted by the Ombudsperson before, since the national law did not oblige the Ombudsperson to report on other occasions)<sup>39</sup>.

Although awareness raising research, surveying or other functions do not officially fall under the competences of the Ombudsperson, in practice, the Ombudsperson is involved in these activities. The government considers the Ombudsperson as the key institution for the promotion of equal opportunities, thus it is involved in many awareness-raising activities, outlined in the governmental programmes on social inclusion and anti-discrimination. For example, it was involved in the Governmental programme for the Integration of Roma 2008 – 2010<sup>40</sup>, the Strategy on the Development of the National Minority Policy until 2015<sup>41</sup> and the National Anti-discrimination Programme for 2009 – 2011<sup>42</sup>.

One of the positive initiatives of the Ombudsperson in 2009 was the establishment of a draft national action plan for equality data collection. It identified a need for such data as well as clearly stated, that current statistical data, which is available, is very limited. The Ombudsperson recommended the government to set up a national

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<sup>38</sup> ENAR Shadow report 2009/2010, Racism and Discrimination in Lithuanian, Gediminas Andriukaitis and Nerijus Kliukas, Lithuanian Centre for Human Rights, unpublished version.

<sup>39</sup> ENAR Shadow report 2009/2010, Racism and Discrimination in Lithuanian, Gediminas Andriukaitis and Nerijus Kliukas, Lithuanian Centre for Human Rights, unpublished version.

<sup>40</sup> Lietuvos Respublikos Vyriausybės nutarimas „Dėl romų integracijos į Lietuvos visuomenę 2008-2010 metų programos patvirtinimo“, 2008 m. kovo 26 d. Nr. 309. [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=317530&p\\_query=&p\\_tr2=](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=317530&p_query=&p_tr2=), accessed May 15, 2010.

<sup>41</sup> Lietuvos Respublikos Vyriausybės nutarimas „Dėl Tautinių mažumų politikos plėtros iki 2015 m. strategijos patvirtinimo“, 2007 m. spalio 17 d. Nr. 1132. [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=307551&p\\_query=&p\\_tr2=](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=307551&p_query=&p_tr2=), accessed August 10, 2010.

<sup>42</sup> The draft of the programme was approved in 2009. Lietuvos Respublikos Vyriausybės nutarimas „Dėl Nacionalinės antidiskriminacinės 2009-2011 m. programos patvirtinimo, 2009 m. balandžio 15 d. Nr. 317. [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=342654&p\\_query=durbano&p\\_tr2=2](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=342654&p_query=durbano&p_tr2=2), accessed May 15, 2010.

action plan for the collection of equality data 2011-2014<sup>43</sup>. Whether the plan will be implemented in practice, remains to be seen.

## ii. Ethnic profiling

There is no information available on the usage of racial profiling. No complaints have been registered in this respect. No discussions are taking place among either civil society actors, or state officials.

## lii. Social inclusion

The social inclusion of minorities (particularly Roma) was severely hit by the government's decision to cut funding. It seems, that progress, made in previous years was completely neglected and most of the achievements remained only on paper<sup>44</sup>.

Lithuania does not have a policy on integration of Roma people. The Roma integration programme 2008-2010 was not fully implemented as it received only 1/3 of the budget planned for it in 2008 and 2009, and in January, 2010, it was stopped. The Ministry of Culture of the Republic of Lithuania was responsible for drafting the Roma integration programme for 2010-2012,

The Ministry of Culture started to prepare the new strategy for 2010-2012 in the summer of 2010, nevertheless preparations were suspended for unknown period of time. Besides it there was a lack of inter-structural systematic approach to the matter.

Besides it, since 1<sup>st</sup> of January, 2010 The Department of national minorities and Lithuanians Living Abroad (previously responsible for implementing the government policy on national minorities in Lithuania) ceased to exist and its' functions related to the national minorities were transferred to the Ministry of Culture<sup>45</sup>.

The adoption of the aforementioned programme in 2008 was thought to be a very positive step forward by many. The programme, contrary to its previous version was mainly aimed at improving Roma unemployment and education, reduction of poverty and fighting social exclusion. It reflected the actual needs of the community as well as the actual current situation. However, due to significant lack of funding the programme remained a paper-based declaration, it is not possible to evaluate actual results, no evaluation of the programme was ever conducted. This is not surprising,

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<sup>43</sup> Equal Opportunities Ombudsperson, Annual report for 2009, available in Lithuanian at [www.lygybe.lt](http://www.lygybe.lt).

<sup>44</sup> ENAR Shadow report 2009/2010, Racism and Discrimination in Lithuania, Gediminas Andriukaitis and Nerijus Kliukas, Lithuanian Centre for Human Rights, unpublished version.

<sup>45</sup> Lithuania / Lietuvos Respublikos Vyriausybės nutarimas dėl Tautinių mažumų ir išeivijos departamento prie Lietuvos Respublikos Vyriausybės ir Lietuvių grįžimo į tėvynę informacijos centro reorganizavimo / No. 634 (10.06.2009)

because throughout the period of its existence, it did not receive 84% of its 'initial budget'<sup>46</sup>.

The Seimas Ombudsperson<sup>47</sup> in 2009 released a report that indicated Vilnius city municipality's' policy for Roma integration can be evaluated similarly – most of the policies were mismanaged, under there was no control on the results of the programme and lack of evaluation. Nevertheless the Vilnius Municipality is in the process of preparation of a new Roma integration strategy.

Although the Strategy on Ethnic Minority Policy Development until 2015<sup>48</sup>, takes into account the situation of minorities in the labour market and foresees a significant number of measures, directly aimed at social inclusion, it also suffered from lack of funds in 2009. It seems that budgetary cuts will continue in 2010 - according to the decision of the Government of January 2010, the programme will get 30% less than initially planned<sup>49</sup>.

Overcoming discrimination, tackling social exclusion or enhancing the integration of ethnic minorities and immigrants were not priorities of national policies of social inclusion<sup>50</sup>. According to The National Action Programme (NAP) report on Social Inclusion policies there are no other priorities, except the eradication of child poverty, increasing the support for the family, encouraging participation in the labour market, improving access to quality services. There will be no particular emphasis on ethnic minorities or migrants in 2010<sup>51</sup>.

#### Article 4

Lithuanian Government adopted almost all necessary legal provisions ensuring the formal application of the Article 4 of the Convention, nevertheless the further named legal changes do not ensure the effective implementation of Article 4, as those legal provisions need to be implemented on a full scale by adopting certain institutional decisions and allocating money for their implementation.

The legal changes made were:

1. The Lithuanian Parliament adopted the Article **170<sup>1</sup> of the Criminal Code** on 9<sup>th</sup> July, 2009 and criminalised the „creation and activities of the groups and organisations aiming at discriminating a group of persons or inciting against it“.

<sup>46</sup> ENAR Shadow report 2009/2010, Racism and Discrimination in Lithuanian, Gediminas Andriukaitis and Nerijus Kliukas, Lithuanian Centre for Human Rights, unpublished version.

<sup>47</sup> Seimas Ombudsmen's Office, Human Rights Protection: Roma's Rights, 2009, [www.lrski.lt/index.php?n=362&l=LT](http://www.lrski.lt/index.php?n=362&l=LT), accessed August 2, 2010.

<sup>48</sup> Lietuvos Respublikos Vyriausybės nutarimas „Dėl tautinių mažumų politikos plėtros iki 2015 metų strategijos patvirtinimo“, 2007 m. spalio 17 d. Nr. 1132.

<sup>49</sup> Lietuvos Respublikos Vyriausybės nutarimas „Dėl 2010 metų Lietuvos Respublikos biudžeto patvirtintų asignavimų paskirstymo pagal programas“, 2010 m. sausio 20 d. Nr. 70.

<sup>50</sup> National Report of Lithuania on Social Protection and Social Inclusion Strategies 2008 – 2010, [http://ec.europa.eu/employment\\_social/spsi/docs/social\\_inclusion/2008/nap/lithuania\\_en.pdf](http://ec.europa.eu/employment_social/spsi/docs/social_inclusion/2008/nap/lithuania_en.pdf), accessed May 6, 2009.

<sup>51</sup> ENAR Shadow report 2009/2010, Racism and Discrimination in Lithuanian, Gediminas Andriukaitis and Nerijus Kliukas, Lithuanian Centre for Human Rights, unpublished version.

2. The Parliament also amended the Article 170 and included a provision that criminalist public incitement of hatred. This provision was adopted on 9 July, 2009, following the Joint Action 96/443/JHA adopted by the Council<sup>52</sup> and the recommendations of the Special Investigations Department of Prosecutor General's Office. Beforehand public incitement of hatred was only an administrative offence<sup>53</sup> It now reads:

*„1. A person who, for the purposes of distribution, produces, acquires, sends, transports or stores the items ridiculing, expressing contempt for, urging hatred of or inciting discrimination against a group of persons or a person belonging thereto on grounds of sex, sexual orientation, race, nationality, language, descent, social status, religion, convictions or views or inciting violence, a physical violent treatment of such a group of persons or the person belonging thereto or distributes them shall be punished by a fine or by restriction of liberty or by arrest or by imprisonment for a term of up to one year“<sup>54</sup>.*

Which ensures that the Article 4 is implemented formally. Nevertheless the adopted law needs to be implemented in practice as well. The practice demonstrates that the provisions are rarely applied to their full extent: most of the investigations are commenced upon the initiative of the civil society groups (NGOs) and when found guilty the sentence applied is usually a fine. Which means the practice did not change much, and the sanctions applied are similar to the administrative sanctions that were in place beforehand, except that currently there is also a need to prove the direct intent of the person, which makes it more complicated.

“In 2009 in Lithuania, only one court/tribunal case explicitly addressed a racist attack<sup>55</sup>, whereas the Office of Equal Opportunities Ombudsperson received 19 complaints of discrimination based on racial or ethnic origin, this number being slightly smaller than those received in 2007 or 2008. It must be noted that after the Law on Equal Treatment had entered into force, numbers of complaints of this category began to increase steadily. In 2005, 18 cases of possible discrimination based on race or ethnicity were investigated, constituting 14% of all investigations conducted that year. 20 cases were investigated in 2006, accounting for 15%; 23 investigations in 2007, making 14% of all complaints received; 28 cases in 2008, amounting to 13% of all cases investigated.

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<sup>52</sup> Joint Action 96/443/JHA of 15 July 1996 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, concerning action to combat racism and xenophobia, *Official Journal L 185*, 24/07/1996 P. 0005 – 0007 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31996F0443:EN:HTML>, accessed June 2, 2010.

<sup>53</sup> Lietuvos Respublikos Administracinių teisės pažeidimų kodekso 13, 15, 41, 142, 172<sup>19</sup>, 172<sup>21</sup>, 173<sup>5</sup>, 214, 214<sup>10</sup>, 214<sup>19</sup>, 221, 224, 232, 232<sup>1</sup>, 233, 246<sup>1</sup>, 246<sup>6</sup>, 259<sup>1</sup>, 262, 281, 288, 320 straipsnių pakeitimo ir papildymo, kodekso papildymo 41<sup>12</sup>, 43<sup>11</sup>, 43<sup>12</sup>, 142<sup>11</sup>, 187<sup>13</sup> straipsniais ir 214<sup>12</sup>, 214<sup>13</sup> straipsnių pripažinimo netekusiais galios įstatymas, 2009 m. liepos 15 d. No. XI-349, *Valstybės žinios* (2009-07-28), No. 89-3805. [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=349856](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=349856), accessed June 2, 2010.

<sup>54</sup> Lietuvos Respublikos Baudžiamojo kodekso 170, 191, 192 straipsnių pakeitimo ir papildymo įstatymas ir kodekso papildymo 170<sup>1</sup> straipsnių įstatymas, 2009 m. liepos 9 d. No. XI-330, *Valstybės žinios* (2009-07-23) No. 87-3663, [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=349515](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=349515), accessed June 2, 2010.

<sup>55</sup> On May 27, 2009 a court convicted V. Iljinych for her part in an April 2008 assault against a South African singer of Indian descent.

The decreased number of complaints of this category in 2009 was firstly influenced by difficult economic situation in the country. Secondly, complaints of discrimination were less frequently submitted due to fear of work dismissal during a difficult economic period; the number of complaints went into decline because complainants were afraid of unemployment. The same reasons apply to the complainants, concerning ethnic origin<sup>56</sup>. Furthermore, it must be noted there is a tendency formed in recent years that the employers tend to consult the Equal Opportunities Ombudsperson before taking action<sup>57</sup>.

“In this context, the report of the European Union Agency’s of Fundamental Rights on racism and xenophobia for Lithuania in 2007 should be taken into account. The report stated: “The very low number of recorded complaints in some Member States, despite NGO reports and independent research surveys pointing towards the existence of ethnic discrimination in these countries (including Lithuania), could indicate a lack of awareness of the existence and functioning of these specialised bodies”<sup>58</sup>.

The Law on Equal Treatment expanded the mandate of the previous Ombudsperson of Equal Opportunities for Men and Women, thus a new institution – the Equal Opportunities Ombudsperson – covering all grounds of discrimination, embodied in directives 2000/43/EC, 2000/78/EC and gender ground, came into being on 1 January 2005. However, as an equality body the Ombudsperson lacks particular features that are intended by the Racial Equality directive. Herein, the inaccurate perception of an Ombudsperson itself must be noted.

According to the law, providing independent assistance to victims of discrimination in pursuing their complaints on discrimination, as required by Article 13 of the Racial Equality Directive, bringing discrimination complaints or intervening in legal cases does not fall under the competence of the Ombudsperson. These activities are also not exercised in practice. In July 2009 the competence of the Ombudsperson was expanded to include the implementation of independent research, related to complaints of discrimination, drafting of independent reports and providing an overview on discrimination in general. Thus, this particular field of competence is rather new and not well developed (no theme-specific or any other reports were drafted by the Ombudsperson before, since the national law did not oblige the Ombudsperson to report on other occasions).

Although awareness raising research, surveying and other functions do not officially fall under the competences of the Ombudsperson, in practice, the Ombudsperson is

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<sup>56</sup> ENAR Shadow report 2009/2010, Racism and Discrimination in Lithuania, Gediminas Andriukaitis and Nerijus Kliukas, Lithuanian Centre for Human Rights, unpublished version.

<sup>57</sup> The Office of Equal Opportunities Ombudsperson Annual report of 2009. [http://www.lygybe.lt/assets/LGKT%20ataskaita%202009\\_kovo\\_15.doc](http://www.lygybe.lt/assets/LGKT%20ataskaita%202009_kovo_15.doc), accessed April 18, 2010

<sup>58</sup> The European Union agency of fundamental rights, Report on racism and xenophobia in the Member States of the EU, 2007, <http://infoportal.fra.europa.eu/InfoPortal/publicationsFrontEndAccess.do?id=11016>, accessed July 6, 2010.



involved in these activities. The government considers the Ombudsperson to be the key institution for promotion of equal opportunities, thus it is involved in many awareness raising activities, outlined in the governmental programmes on social inclusion and anti-discrimination. For example, it was involved in the Governmental programme for the Integration of Roma 2008 – 2010<sup>59</sup>, the Strategy on the Development of the National Minority Policy until 2015<sup>60</sup> and the National Anti-discrimination Programme for 2009 – 2011<sup>61/62</sup>.

## Media & Internet

“The tendency of the media to use sensational rhetoric and negative terminology in articles on minorities and migration has been decreasing significantly since 2008. A few notorious racist incidents received extensive coverage by the media but others were not reported upon.

The Lithuanian Consumer Institute’s analysis of the refugee image in the media in 2009 concluded, that there was a relatively low number of articles on refugees in Lithuania, which shows that this is not a popular topic and lacks attention from the media and society in general. The survey revealed that most of the articles related to refugees were positive and talking about their integration into Lithuanian society. In addition, special events, such as one the opening of Chechen bakeries and World Refugee Day have a lot of positive media coverage<sup>63</sup>.

Nonetheless, one of the biggest notorious media group “Respublika” contentiously publishes articles with anti-Semitic statements. The Period of 2009-2010 was no exception. Although this material was not evaluated as material, which could instigate hatred or discriminatory behaviour, by competent institutions.

However, one of the main problems in 2009-2010 remained the commentaries on Internet news portals. Most of the criminal cases on instigation of hatred concerned anonymous commentaries on the web. The Special Investigations Division of the Prosecutor General’s Office of the Republic of Lithuania states, that 88% of all cases

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<sup>59</sup> Lietuvos Respublikos Vyriausybės nutarimas „Dėl romų integracijos į Lietuvos visuomenę 2008-2010 metų programos patvirtinimo“, 2008 m. kovo 26 d. Nr. 309.  
[http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=317530&p\\_query=&p\\_tr2=](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=317530&p_query=&p_tr2=), accessed May 15, 2010.

<sup>60</sup> Lietuvos Respublikos Vyriausybės nutarimas „Dėl Tautinių mažumų politikos plėtros iki 2015 m. strategijos patvirtinimo“, 2007 m. spalio 17 d. Nr. 1132.  
[http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=307551&p\\_query=&p\\_tr2=](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=307551&p_query=&p_tr2=), accessed August 10, 2010.

<sup>61</sup> The draft of the programme was approved in 2009. Lietuvos Respublikos Vyriausybės nutarimas „Dėl Nacionalinės antidiskriminacinės 2009-2011 m. programos patvirtinimo, 2009 m. balandžio 15 d. Nr. 317.  
[http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=342654&p\\_query=durbano&p\\_tr2=2](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=342654&p_query=durbano&p_tr2=2), accessed May 15, 2010.

<sup>62</sup> ENAR Shadow report 2009/2010, Racism and Discrimination in Lithuania, Gediminas Andriukaitis and Nerijus Kliukas, Lithuanian Centre for Human Rights, unpublished version.

<sup>63</sup> Lietuvos vartotojų institutas, Pabėgėlių įvaizdis respublikinėje ir regioninėje spaudoje, 2009, [http://www.vartotojai.lt/public/file/tyrimai/spaudos\\_tyrimas.pdf](http://www.vartotojai.lt/public/file/tyrimai/spaudos_tyrimas.pdf), accessed July 25, 2010.

that are investigated by this particular division, are made in the public sphere (media, internet)<sup>64</sup>. As in previous periods, there is reason to believe that as continuous monitoring of the public information is not appropriately regulated (legally and institutionally), the number of unregistered and unsolved discrimination offences remains high.”

## Article 5

“It is not easy to establish a very clear picture of racist practice in Lithuania. Neither governmental bodies, nor NGO’s have permanent monitoring mechanisms. Thus one has to rely on various sources and criteria.

In 2009 in Lithuania, there was only one court/tribunal case, explicitly addressing a racist attack<sup>65</sup> and the Office of Equal Opportunities Ombudsperson received 19 complaints of discrimination based on racial or ethnic origin, which was slightly less than the cases received in 2007 or 2008. It must be noted that when the Law on Equal Treatment entered into force, this category of complaints steadily increased. In 2005, there were 18 cases investigated of possible discrimination based on race or ethnicity, this constituted 14% of all investigations of that year. In 2006 20 cases were investigated, accounting for 15%, 23 investigations in 2007 – 14% of all complaints received and 28 cases in 2008 amounting to 13% of all cases investigated.

Firstly, the decrease of this category of complaints in 2009 may be explained by the difficult economic situation in the country. Secondly, persons that have complained of discrimination in difficult times are often at risk of dismissal from work, therefore complaints about discrimination in general decline because of the fear of losing their job. It must be noted that the same applies to the complainants, concerning ethnic origin. Moreover, it should be mentioned that in recent years employers are willing to consult with the Equal Opportunities Ombudsperson before taking action<sup>66</sup>.

In this context, the report of the European Union Agency’s of Fundamental Rights on racism and xenophobia for Lithuania in 2007 should be taken into account. They stated: “The very low number of recorded complaints in some Member States, despite NGO reports and independent research surveys pointing towards the existence of ethnic discrimination in these countries (including Lithuania), could indicate a lack of awareness of the existence and functioning of these specialised bodies”<sup>67</sup>.

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<sup>64</sup> Special Investigations Division of Prosecutor General’s Office of the Republic of Lithuania, Annual Report 2009, <http://www.prokuraturos.lt/LinkClick.aspx?fileticket=Hios4sR7sXk=&tabid=221> , accessed August 9, 2010.

<sup>65</sup> On May 27, 2009 a court convicted V. Iljnych for her part in an April 2008 assault against a South African singer of Indian descent.

<sup>66</sup> The Office of Equal Opportunities Ombudsperson Annual report of 2009. [http://www.lygybe.lt/assets/LGKT%20ataskaita%202009\\_kovo\\_15.doc](http://www.lygybe.lt/assets/LGKT%20ataskaita%202009_kovo_15.doc) , accessed April 18, 2010

## i. Employment

“Unemployment data by ethnicity stopped being collected by the Statistic Department at the end of 2003. Therefore, there is a lack of comprehensive and accurate data on the subject. Moreover, since the end of 2008, the Centre of Ethnic Studies, Institute for Social Research, Institute of Labour and Social Studies suffers from a lack of finance and the Department of National Minorities and Lithuanians Living Abroad closed at the beginning of 2010. Thus during 2009-2010 there was little research carried out in this field.

However, previous research and polls indicate that in general, ethnic minorities tend to suffer higher unemployment<sup>68</sup> and specific ethnic minorities suffer extreme abusiveness<sup>69</sup>. According to the latest available poll (2008), almost 70% of the surveyed ethnic minorities were employed, on a contractual basis<sup>70</sup>. Nevertheless, only half of them understand Lithuanian, even less can speak it (1/3) or write it (1/5). Earlier research on unemployed minorities revealed that a substantial percentage of unemployed minorities suffer from long-term unemployment<sup>71</sup>, although most of them have basic or higher education.

The lack of language knowledge as well as computer illiteracy was identified as the biggest obstacles for successful integration into the labour market. In Lithuania 42% of ethnic minority survey respondents indicated that they were experiencing problems in the labour market due to poor language skills<sup>72</sup>. Most of the unemployed representatives indicated a willingness to improve their language skills (61%), however most claimed that there are no possibilities to do that.

However, prejudice and intolerance also play a big role. In a Lithuanian phone survey almost 60% of employers stated they would give priority to hiring local citizens rather than refugees<sup>73</sup>. Moreover, 10% of minorities believe that their employers' negative attitude regarding their ethnicity cause difficulties in searching for work and

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<sup>67</sup> The European Union agency of fundamental rights, Report on racism and xenophobia in the Member States of the EU, 2007, <http://infoportal.fra.europa.eu/InfoPortal/publicationsFrontEndAccess.do?id=11016>, accessed July 6, 2010.

<sup>68</sup> Beresnevičiūtė, Vida, “Etninių grupių socialinės integracijos dimensijos šiuolaikinėje Lietuvos visuomenėje”, in Etniškumo studijos / Ethnicity Studies 2005, (Vilnius: Socialinių tyrimų institutas, Eugrimas).

<sup>69</sup> European Union Agency for Fundamental Rights Annual Report 2010, Media Memo, June 10, 2010 <http://fra.europa.eu/fraWebsite/attachments/FRA-AR-2010-Media-Memo-EN.pdf>, accessed August 18, 2010.

<sup>70</sup> Vyrų ir moterų, priklausančių tautinėms mažumoms padėties darbo rinkoje tyrimas, Tautinių mažumų ir išeivijos departamentas, 2009.

<sup>71</sup> Tautinių mažumų namai, Tautinių mažumų integracijos į darbo rinką galimybių tyrimas, Available in Lithuanian at: [http://www.tbn.lt/web\\_doc/informacija.doc](http://www.tbn.lt/web_doc/informacija.doc), accessed April 29, 2010.

<sup>72</sup> Vyrų ir moterų, priklausančių etninėms mažumoms, padėtis darbo rinkoje, tyrimo ataskaita, Darbo ir socialinių tyrimų institutas, 2008, report of the study conducted by the request of the Department of National Minorities and Lithuanians Living Abroad, 2009.

<sup>73</sup> Lithuanian Centre for Adult Education and Information at the request of Rukla Refugee Reception Centre in February 2009 and included a sample of 404 Lithuanian companies.

in the working environment. Almost every fifth representative of the latest survey claimed to have experienced discrimination on the grounds of ethnicity in the employment field.

Data from the Centre of Ethnic Studies confirms that negative attitudes towards colleagues of other ethnicities exist in society and is especially unfavourable to Roma – almost 40% of the population would not like to work with Roma people. The situation of Roma employment is particularly adverse. Although Lithuania adapted its vocational training programme for unemployed Roma in 2008 and set up a job search centre targeted at Roma,<sup>74</sup> more than 50% of Roma community identified themselves as jobless<sup>75</sup>. Less than 10% are legally employed. Other surveys indicated their very low professional competences<sup>76</sup>. Most Roma earn income through temporary work (collecting scrap, work in the market, etc.) or even through criminal activities. More than one third of Roma have no knowledge of Lithuanian and the level of illiteracy among Roma is very high. Many Roma do not have identification papers and there are those who do not have Lithuanian citizenship.

In spite of that, research also revealed that the myth of Roma being lazy and not willing to work is unfounded – 73% of surveyed Roma were willing to work or are looking for a job. Despite their lack of professional competences, surveyed Roma were realistic about their possible careers – most of them indicated jobs that do not require particular professional skills (cleaners, housekeepers, dishwashers, etc.)<sup>77</sup>. Research revealed, that most Roma lack education and professional skills - every fifth person, who participated in the survey had no education at all, 17,6% had basic education, 83% had no profession at all.

However, 8 out of 10 surveyed Roma identified prejudice and negative attitudes of employers as one of the main reasons of their unemployment. A survey of employers' attitude towards Roma proved this reason to be well founded. Almost half of surveyed employers (47%) stated that their company probably would not employ Roma.

There was one anonymous complaint submitted to The Office of Equal Opportunities Ombudsperson against a company, of which an employment advertisement was put on Internet. The advertisement noted that priority would be given to candidates whose mother- tongue is Russian. It violated Equal Opportunities laws and the

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<sup>74</sup> European Commission, Roma in Europe: The Implementation of European Union Instruments and Policies for Roma Inclusion – Progress Report 2008-2010, <http://ec.europa.eu/social/BlobServlet?docId=4823&langId=en> , accessed 20 April, 2010.

<sup>75</sup> Romų padėties tyrimas: Romai švietimo ir darbo rinkos sankirtoje, Socialinių tyrimų instituto etninių tyrimų centras, 2008 gruodis.

<sup>76</sup> Žmogaus teisių stebėjimo institutas, Romai: situacijos apžvalga, 2007. Accessed April 20, 2010.

<sup>77</sup> Socialinių tyrimų institutas, Etninių tyrimų centras, Romų ir darbdavių nuostatos dėl Romų integracijos į darbo rinką 2007, <http://www.ces.lt/downloads/structure/files/> , accessed May 16, 2010.

Constitution, but the company officially apologized and changed their advertisement to be in accordance with the law. The investigation was subsequently terminated<sup>78</sup>.

There were also cases reported during 2009 of the extreme exploitation of migrant workers, often made possible by their legal vulnerability. Such workers were predominately Moldavian and Ukrainian citizens in Lithuania<sup>79/80</sup>.

## ii. Housing

“There is an obvious lack of data, regarding access to housing and possible discrimination in this field. Department of Statistics provides annual data on household-dwelling units and housing conditions.

Lithuania has taken obligations to support each person's right to have a habitation of a certain standard and to prevent the spread of homelessness as well as try to gradually eliminate it completely. However, the economic situation of the country as well as the shortage of social housing prevents the implementation of standards set forth by the international legal acts. The difference between those standards and the living conditions of many people is significant. It is particularly striking, when speaking about the Roma community, particularly the 500 inhabitants of Kirtimai settlement (20–25% of all Roma people living in Lithuania).

In 2009 the Lithuanian Parliament Ombudsperson completed an investigation of a complaint lodged by the chairman and 70 representatives of the Roma community living in the Kirtimai settlement in Vilnius<sup>81</sup>. The complainants requested assistance in solving some of the most relevant problems such as payment for public services, housing, legitimisation of the land of their settlement and other problems that have not been solved for years.

The results of the survey once again highlighted the shocking living conditions of the Kirtimai Roma community: the lack of electricity, all dwellings are heated by solid fuel stoves and there is only one field water tank, which is being used by all the inhabitants of the Kirtimai settlement. Moreover, there is no urban drainage system or a local sewage system. 53 inhabitants are using local toilets, and only some dwellings are equipped with gas cylinders. 80% of respondents, who are the owners of the dwellings and 72% of other Roma persons living in these dwellings did not

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<sup>78</sup> The Office of Equal Opportunities Ombudsperson Annual report of 2009, [http://www.lygybe.lt/assets/LGKT%20ataskaita%202009\\_kovo\\_15.doc](http://www.lygybe.lt/assets/LGKT%20ataskaita%202009_kovo_15.doc), accessed 18 April, 2010.

<sup>79</sup> All information provided by the Embassy of the Republic of Moldova to the Republic of Lithuania and the association of trade unions Solidarumas. Communication of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) with the association of trade unions Solidarumas, 2009.

<sup>80</sup> ENAR Shadow report 2009/2010, Racism and Discrimination in Lithuania, Gediminas Andriukaitis and Nerijus Kliukas, Lithuanian Centre for Human Rights, unpublished version.

<sup>81</sup> Seimas Ombudsmen's Office, Human Rights Protection: Roma's Rights, 2009, [www.lrski.lt/index.php?n=362&l=LT](http://www.lrski.lt/index.php?n=362&l=LT), accessed August 2, 2010.

want to leave the Kirtimai settlement. Four respondents-owners of the dwellings; however, are waiting for social housing.

The same problems were shown in a recent Amnesty International Report 2009 on Lithuania: “Unemployment rates among Roma remained several times higher than among ethnic Lithuanians, and living conditions in Roma settlements were sometimes below minimum standards, lacking electricity and heating as well as drinking water and sanitation facilities”<sup>82</sup>.

Kirtimai Roma housing problems are closely related to the legality of the dwellings. The Roma were forced to settle in Kirtimai 50 years ago during Soviet occupation. Buildings were built on state-owned land and were not legalised i.e. *de jure* Roma people live on that land illegally. However, *de facto* funds are being invested into the improvement of their living conditions in the mentioned territory and their buildings (all in all 139, out of this number 43) are registered. According to various experts, the only solution to the problem of housing in Kirtimai is to solve the legal status of the territory as soon as possible.

It is worth mentioning that in other cities, for example, Marijampolė – after successful cooperation between the Office of Equal Opportunities Ombudsperson and City Municipality housing conditions were significantly improved for a Roma woman, who was living with her disabled child.<sup>83</sup>

Moreover, at the end of 2009 the Vilnius Regional Administrative Court had not reached a decision on its reconsideration of claims for compensation by the residents of a Roma neighbourhood for the destruction of their housing. The court initially awarded 100,000 LTL (EUR 28,962) to the inhabitants, then the case went to the Supreme Administrative Court of Lithuania that adopted a final decision on 23<sup>rd</sup> September, 2010 and awarded 55,000 LTL (EUR 15,929).

### iii. Education

“There is a lack of comprehensive data on racism and discrimination in education. There is a variety of schools in the Vilnius region: trilingual (Polish-Lithuanian-Russian), bilingual schools (Polish-Lithuanian or Russian-Lithuanian), however the monolingual model still dominates. The model of having schools with different language comes from the soviet times. Earlier reports indicated that minority schools were somewhat lagging behind majority schools in achieving greater variety in school types and curriculum development<sup>84</sup>. Although the latest in-depth report on education in the Vilnius region did not prove significant disparities or structural

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<sup>82</sup> Amnesty International Annual Report 2009: Lithuania, <http://www.amnesty.org/en/region/lithuania/report-2009> , accessed June 1, 2010.

<sup>83</sup> The Office of Equal Opportunities Ombudsperson Annual report of 2009. [http://www.lygybe.lt/assets/LGKT%20ataskaita%202009\\_kovo\\_15.doc](http://www.lygybe.lt/assets/LGKT%20ataskaita%202009_kovo_15.doc) , accessed 18 April, 2010.

<sup>84</sup> Centre for Ethnic Studies Institute for Social Research, RAXEN NFP, National Annual Report 2004 - Lithuania

discrimination, some problematic areas and disadvantageous to minorities, can be identified.

According to the Ministry of education, in recent years Lithuania's population has been decreasing, therefore the numbers of students were decreasing accordingly. These processes (as well as school reform measures) are related to a general decline in the number of schools. However, the decrease of schools where minority languages are taught was mild. Over the past four years, bilingual schools replaced 10 monolingual Russian language schools. The number of Polish language schools remained relatively stable (over a period of four years, 2 schools closed)<sup>85</sup>.

Most schools, where children are not taught in Lithuanian, are located in areas with abundant minority populations. Schools of Polish language are mostly located in Vilnius district (30), Salcininkai district (17), Vilnius city (11) municipalities, in Russian language – Vilnius city (20) and Klaipeda city (8) municipalities.

There are a variety of schools in the Vilnius region: trilingual (Polish – Lithuanian - Russian), bilingual schools, however the monolingual model clearly dominates<sup>86</sup>. Among these, the density of monolingual Polish schools is the highest. The qualification of all teachers in the Vilnius region is similar to the country average. However, the percentage of extra-qualified teachers (experts and supervisors) in schools of Vilnius region is significantly lower, – only 15% (in comparison to 30% state average)<sup>87</sup>. Additionally, the number of teachers-experts is particularly low in Polish language schools, although the number of these schools is the highest in the region. Moreover, the size of Vilnius region schools may also contribute to the quality of education. According to the national scheme, where financing is allocated to schools depending on the number of pupils, slightly bigger schools are in a more favourable position. Vilnius region schools are significantly smaller, in comparison to other regions<sup>88</sup>, the smallest being the Polish monolingual schools.

However, it must be added, that the system of education in a culturally diverse Vilnius region is a sensitive issue. A survey revealed, that although multilingual schools are considered more efficient by the majority of respondents (parents, teachers, school administration), the monolingual model remains the dominating

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[http://www.ces.lt/downloads/structure/files/Nat%20Rep%202004%20Exe%20summary\\_Eng.pdf](http://www.ces.lt/downloads/structure/files/Nat%20Rep%202004%20Exe%20summary_Eng.pdf) , accessed August 4, 2010.

<sup>85</sup> LR Švietimo ir mokslo ministerija, Lietuvos švietimas. Tik faktai, Metinis pranešimas, 2010, [http://www.smm.lt/svietimo\\_bukle/docs/apzvalgos/Lietuvos%20svietimas%202010.pdf](http://www.smm.lt/svietimo_bukle/docs/apzvalgos/Lietuvos%20svietimas%202010.pdf) , accessed July 5, 2010.

<sup>86</sup> Romų bendruomenės socialinės integracijos galimybių tyrimas, Etninių tyrimų centras, tyrimo vadovas dr. Tadas Leončikas, 2007 m. <http://www.lygybe.lt/ci.admin/Editor/assets/Romu%20integrac%20galimybes%20ataskaita.pdf>, accessed December 19, 2010.

<sup>87</sup> Mokymosi prieinamumas Vilniaus rajono gyventojams, LR Švietimo ir mokslo ministerija, [http://www.smm.lt/svietimo\\_bukle/docs/tyrimai/sb/Mokymosi\\_prieinamumas.pdf](http://www.smm.lt/svietimo_bukle/docs/tyrimai/sb/Mokymosi_prieinamumas.pdf), accessed May 4, 2009.

<sup>88</sup> The average number of pupils is 167, which is more than two times less than in Lithuanian dominated Kaunas region.

one. Necessity to have a monolingual school for minorities (particularly the Polish minority) remains more a question of preservation of ethnical identity, rather than a will to increasing the efficiency of education. Thus although there is a rational need for more efficient, bigger and more multilingual schools, the sense of ethnical belonging and willingness to preserve community, language and cultural identity maintains the dominating system of small, but less efficient monolingual schools<sup>89</sup>.

According to data of 2008, access to education remained the most pressing issue for the Roma minority. The Roma had the highest rate of illiteracy according to the latest Census – as many as 31 illiterate persons per every 1,000 Roma aged ten and over. Although compared to other minorities it is much more common that the knowledge of the state language is less among the older generation, the situation with the Roma community is the opposite. This raises serious concerns, since 46% of Roma are persons under age of 15 (comparing to 27% of state average<sup>90</sup>). The latest report on Roma education states, that the main reasons influencing Romas' learning difficulties are related to the lack of social skills, linguistic barriers and poor school attendance<sup>91</sup>.

In 2009, the Children's Rights Ombudsperson Institution published a report on the integration in Lithuanian schools of children of foreign citizens who migrated to Lithuania. Many practical challenges to the integration of migrants' children in schools were noted, clearly pointing to the lack of attention by the competent institutions as well as the lack of necessary funding: 1) lack of methodology to evaluate a student's ability, 2) insufficient preparation of teachers, and 3) in some cases, insufficient financing of the Lithuanian language and other additional classes<sup>92</sup>.

A few complaints regarding discrimination in education were received at the Office of Equal Opportunities Ombudsperson. An anonymous person complained that although the 43<sup>rd</sup> Article of the Lithuanian Constitution states that "There is no national religion in Lithuania", the Christian religion is taught in national schools as a mandatory class and the only alternative for it is an ethics class. The complainant states that if the Christian religion class is chosen, then student becomes ineligible to receive education on ethics in Lithuanian national schools. The Vice-Minister of the Ministry of Education and Science explained that the Ministry inspected the complaint and declared (with references to Article 40 of the Constitution) that national and municipal education institutions are secular. They stated that it is only at the request of parents that the Christian religious is taught. Furthermore, Article 31 of the Education Law states, "religion is an optional part of moral education". After the investigation, the Office of Equal Opportunities Ombudsperson declared

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<sup>89</sup> There process of consolidation of schools takes place very slowly. In 2008, however, 4 bilingual gymnasiums (mostly Polish-Lithuanian) were established in the region.

<sup>90</sup> Data of 2001 Census.

<sup>91</sup> Romų padėties tyrimas: Romai švietimo ir darbo rinkos sankirtoje, Socialnių tyrimų instituto etninių tyrimų centras, 2008 m.

<sup>92</sup> Children's Rights Ombudsperson Institution of the Republic of Lithuania, Report on the Integration in Lithuanian Schools of Children of Lithuanian and Foreign Citizens, who (re)immigrated to Lithuania, 2009.



that there is no objective evidence to state that equal opportunities are not preserved in the Lithuanian education system. Parents are eligible to choose the moral education subject over the religious class<sup>93</sup>.

A second complaint was addressed to the Office of Equal Opportunities Ombudsperson regarding the Jewish Vilnius Šalom Aleichum secondary school. This school's internal rules stated that the "School is formed by the principle that one of the parents or grandparents has to be of a Jewish origin. Priority is set to a child whose parents belong to Vilnius Jewish community. If there is space then children of other nationalities are accepted. Education is secular." The school subsequently discarded the discriminatory requirements of admission<sup>94/95</sup>.

#### iv. Health

"There is a lack of information regarding discrimination of ethnic minorities in the field of health care in Lithuania. There were no court cases or filed complaints at the Office of the Equal Opportunities Ombudsperson during 2009.

Although the national legislation does not discriminate against ethnic or religious minorities in the sphere of health care, certain communities are vulnerable to discrimination. This particularly concerns Roma, since the absolute majority of the Roma community are unemployed. According to the Law on Health Insurance, persons who do not pay mandatory social insurance payments cannot apply for free health care services (except for emergencies)<sup>96</sup>. In case of illness, people who are not insured by the obligatory social insurance can only expect free services for first aid. Additionally, a number of Roma do not have any identification papers. Thus in such situations, accessing health services is very difficult. This is alarming, bearing in mind that Roma of Kirtimai settlement live in an environment where drug production and distribution is easily accessible. Some Roma are addicted to drugs and this seems to be an increasing problem. However, one of the positive actions in a sphere of health care towards Roma was that during 2009 – 2010 State has been focusing on an information campaign on the sanitation and hygiene of Roma women and girls.<sup>97</sup>

As there were no significant legal amendments related to the rights of asylum seekers and refugees, problems related to their social guarantees remain the same as the year before. After the expiry of the period of integration<sup>98</sup> foreigners with refugee status are insured by the compulsory health insurance company as

<sup>93</sup> The Office of Equal Opportunities Ombudsperson Annual report of 2009.

[http://www.lygybe.lt/assets/LGKT%20ataskaita%202009\\_kovo\\_15.doc](http://www.lygybe.lt/assets/LGKT%20ataskaita%202009_kovo_15.doc) , accessed April 18, 2010.

<sup>94</sup> The Office of Equal Opportunities Ombudsperson Annual report of 2009.

[http://www.lygybe.lt/assets/LGKT%20ataskaita%202009\\_kovo\\_15.doc](http://www.lygybe.lt/assets/LGKT%20ataskaita%202009_kovo_15.doc) , accessed April 18, 2010.

<sup>95</sup> ENAR Shadow report 2009/2010, Racism and Discrimination in Lithuania, Gediminas Andriukaitis and Nerijus Kliukas, Lithuanian Centre for Human Rights, unpublished version.

<sup>96</sup> 21 May 1996 the Law on Health Insurance No I-1343.

<sup>97</sup> European Commission, Roma in Europe: The Implementation of European Union Instruments and Policies for Roma Inclusion – Progress Report 2008-2010, <http://ec.europa.eu/social/BlobServlet?docId=4823&langId=en> , accessed 20 April, 2010.

permanent residents of the Republic of Lithuania. However, the situation is different for those who are granted subsidiary protection (absolute majority of asylum seekers do not get refugee status in Lithuania) and temporal residence permits. If they do not manage to find a job, they are excluded from the social support system and health care. According to Article 4 (5) of the Health Insurance Legislation<sup>99</sup> the Government undertakes to adopt an order concerning funding their health care, but no by-laws have been adopted yet. Thus there are gaps in national legislation. According to the Law on Health Insurance minorities, which are granted subsidiary protection, have to be insured by the State. Nevertheless, there is a common practice for doctors to require a note certifying the insurance, although it is unnecessary”<sup>100</sup>.

#### v. Access to goods and services in the public and private sector

“There is lack of reliable statistical data and research in the area of access to goods and services that would show the scale of discrimination. On the other hand, unofficial information alleges that Roma face discrimination in accessing services or goods in their everyday life. Over the past few years there were some cases when dark-skinned Erasmus exchange programme students faced difficulties renting accommodation.

Refugees and asylum seekers face difficulties in this field as well. In Lithuania after one year of the state supported integration programme<sup>101</sup>, refugees start to live on their own, and have to pay for the living premises at their own expense. Usually it is difficult for a refugee to find an apartment to rent. Lithuanian citizens do not want to rent a living place to refugees. Another common problem is that even if a refugee succeeds in renting an apartment, the owner does not want a refugee to make an official declaration that he/she lives in that apartment. However, such cases are not registered and there is no relevant statistical data.

A widely covered case of racism in the field of goods and services was registered at the Office of Ombudsperson for Equal Opportunities. The Office received a request to

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<sup>98</sup> Support for asylum seekers and refugees is provided in Refugee Reception Centre in Rukla for 8 months (the integration period may be extended up to 12 months and for vulnerable groups - up to 18 months). After the integration of refugee in Refugee Reception Center, the support is given to integrate by the municipality, which lasts until 12 months after the foreigners (who has got granted asylum) departure of the Refugee Reception Centre (the period may be extended for the vulnerable groups of foreigners), but not longer than the temporary residence permit is issued by the Lithuanian Republic or until the person's departure from the Republic of Lithuania

<sup>99</sup> 21 May 1996 the Law on Health Insurance No I-1343.

<sup>100</sup> ENAR Shadow report 2009/2010, Racism and Discrimination in Lithuanian, Gediminas Andriukaitis and Nerijus Kliukas, Lithuanian Centre for Human Rights, unpublished version.

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inquire whether the word "piccaninny" or "little nigger" came within the scope of tolerance and ethics. It was claimed that a store was selling cacao pies called "piccaninny" (or "little nigger"). The Ombudsperson decided, that the word "piccaninny" (according to the situation it is used) in many particular cases may lead to an insult, humiliation and contempt of race. Therefore, the Ombudsperson assumed that the usage of "piccaninny" in the public sphere was not recommended. Promoting and ensuring equal opportunities in society, that word can form negative stereotyped attitudes about black –skinned people. Keeping all in mind, the potential negative meaning of the word "nigger" in a social context and in compliance with Article 12 (2) of the Law on Equal Opportunities for Women and Men, it was proposed for the food store withdraw its usage of the word "piccaninny"<sup>102</sup><sup>103</sup>.

## Article 6

As mentioned in official periodic report of Lithuania, at the time of preparing the report, amendments to the Criminal Code of Republic of Lithuania were expected to change the situation of discrimination in Lithuania radically. The most recent changes in legislation are explained in detailed in the chapter analysing the implementation of the Article 4.

The system of data collection administered by the IT and Communications Department under the Ministry of Interior is functioning erroneously.<sup>104</sup> The Special Investigation Department of the Prosecution Office records only the investigations of racist crimes related to discrimination of persons and incitement of hatred (Articles 169 and 170 of the Criminal Code), nevertheless criminal acts which are committed with a racist motivation do not fall under those provisions. Even if the motivation of the suspect was included in pre-trial statistics<sup>105</sup>, it is not used as data for statistical information that is disseminated to the public; therefore the real scale of racist crimes remains latent due to the lack of correct statistical information<sup>106</sup>. Besides it, the data submitted by the IT and Communications department and the data reported by the Special Investigations Department is different. The reason for it could be the lack of information submitted by the pre-trial investigation officers, also the lack of date submitted by the victims of crimes due to many reasons: mistrust in the effectiveness of the investigation, fear for the safety for oneself and their family. This could be explained due to the lack of information submitted by the pre-trial investigation officers. So far it is hard to draw any conclusions, but most probably

<sup>102</sup> Tautinių bendrijų naujienos, Nr.2(33),2010 [http://www.tbn.lt/web\\_doc/Zurnalas%20\(33\).pdf](http://www.tbn.lt/web_doc/Zurnalas%20(33).pdf), accessed September 5, 2010.

<sup>103</sup> ENAR Shadow report 2009/2010, Racism and Discrimination in Lithuanian, Gediminas Andriukaitis and Nerijus Kliukas, Lithuanian Centre for Human Rights, unpublished version.

<sup>104</sup> European Network Against Racism Shadow report "Racism in Lithuania 2007", p. 30; European Network Against Racism Shadow report "Racism in Lithuania 2008", p. 30.

<sup>105</sup> 20 kortelė "Tyrimo rezultatų statistinė kortelė", used since 1st July, 2007, <http://www.nplc.lt/sena/stat/kort/kort.htm>, accessed 5th July, 2010.

<sup>106</sup> Lietuvos Respublikos Generalinė Prokuratūra, Nusikalstamų veiku, padaromų dėl rasinės, etninės, tautinės, religinės neapykantos, kitokios netolerancijos ir diskriminavimo, ikiteisminių tyrimų rezultatų, problematikos, tendencijų ir prevencijos priemonių apibendrinimas, 2008-12-31, Nr. 12.14-41 <http://www.prokuraturos.lt/nbspnbspnusikalstamai%C5%BEmoni%C5%A1kumui/STSapibendrinimai2008m/tabid/430/Default.aspx>, accessed May 15, 2010. p. 3-4

there is a lack of the interest in recording crimes committed with racist motivation or racist violence crimes.

The number of pre-trial investigations commenced under the relevant articles. These are considered as crimes and misdemeanours against a person's equal rights and freedom of conscience (Articles 169-171)<sup>107</sup>: in 2007 – 39 pre-trial investigations were commenced (24 out of them on the grounds of nationality, race, ethnicity, religion); 2008 - 103 (67 out of them on the grounds of nationality, race, ethnicity, 2 – religion); 2009 – 51 (27 out of them on the grounds of nationality, race, ethnicity, religion), 2010 – 168 (48 out of them on the grounds of nationality, race, ethnicity, religion).

It is difficult to assess whether the official data can be compared with the real situation, nevertheless according to the knowledge of the Roma Community Center, there are only a few cases in which persons of Romani origin suffered from racist violence against them, committed by the police but never complained due to the fear for their own safety and/or safety of their family members.

#### i. Violent racist attacks

In most of the cases racist violence crimes are recorded as hooliganism, which is officially qualified as Non-Severe Health Impairment (Art. 138), Causing Physical Pain or a Negligible Health Impairment (Art. 140) or Violation of Public Order (Art. 284) or sometimes it is even considered to be an administrative offence such as Minor Hooliganism (Art. 174 of the Administrative Code).

There are cases, when these crimes are qualified as minor offences and without commencing a pre-trial investigation, even if direct or indirect evidence of racist motivation exists<sup>108</sup>.

According to the information by the NGO's submitting this report those national and ethnic minorities who suffer discrimination, violent attacks do not submit complaints because they have a lack of confidence in the law enforcement institutions and judicial authorities, they have already experienced the ineffectiveness of the investigations, and / or fear reprisals.

The Ombudsperson has also a duty to investigate complaints: in 2009 in Lithuania, only one court/tribunal case explicitly addressed a racist attack<sup>109</sup>, whereas the Office of Equal Opportunities Ombudsperson received 19 complaints of discrimination based on racial or ethnic origin, this number being slightly smaller

<sup>107</sup> It is hard to differentiate the pre-trial investigations commenced regarding the acts possibly committed on the grounds of nationality, race, ethnicity, religion from those committed on other grounds from 2003 till 2006, because there is no data available in the Reports of the Prosecution Office. There is data only available from 2007.

<sup>108</sup> Lietuvos Respublikos Generalinė Prokuratūra, Nusikalstamų veikų, padaromų dėl rasinės, etninės, tautinės, religinės neapykantos, kitokios netolerancijos ir diskriminavimo, ikiteisminių tyrimų rezultatų, problematikos, tendencijų ir prevencijos priemonių apibendrinimas, 2008-12-31, Nr. 12.14-41 <http://www.prokuraturos.lt/nbspnbspnusikalstamai%C5%BEmoni%C5%A1kumui/STSapibendrinimai2008m/tabid/430/Default.aspx>, accessed May 15, 2010. P. 4

<sup>109</sup> On May 27, 2009 a court convicted V. Iljinych for her part in an April 2008 assault against a South African singer of Indian descent.

than those received in 2007 or 2008. After the Law on Equal Treatment had entered into force, numbers of complaints of this category began to increase steadily. In 2005, 18 cases of possible discrimination based on race or ethnicity were investigated, constituting 14% of all investigations conducted that year. 20 cases were investigated in 2006, accounting for 15%; 23 investigations in 2007, making 14% of all complaints received; 28 cases in 2008, amounting to 13% of all cases investigated.

The complaints of discrimination in 2009 were less frequently submitted, the reasons for it might be: fear of work dismissal during a difficult economic period; fear of unemployment; difficult economic situation in the country. The same reasons can be named when referring to the complaints concerning ethnic origin. Secondly, The same reasons apply to the complainants, concerning ethnic origin.

## ii. Incitement of hatred and discrimination acts in public

According to the official reports delivered by the Special Investigations Department of the Prosecution Office, the growth in the number of racist crimes recorded in the Prosecution Office in 2006-2007 is related to the effective work of the Prosecution Office, whereas in 2008 it is caused by the growth of the crimes committed against people who have another nationality or ethnicity, as well as the active participation of persons and NGOs. In 2009 the decrease of the racist attacks is related to the effective work of the prosecution office. Nevertheless, we can follow again the increase of the commenced pre-trial investigations in 2010. According to the NGOs, this was affected directly by the active role of NGOs submitting complaints to the Prosecution's office most of which cover the discrimination and / or incitement of hatred in media (Article 169 and 170). Therefore it is difficult whether the number of crimes has increased or decreased as it mostly depends on the capabilities of the NGOs.

Almost all criminal investigations related to incitement of ethnic hatred, intolerance, discrimination on the basis of race, ethnic origin or religious belief are launched by prosecutors of the Special Investigation Department of the Prosecution Office. The police, who are the main pre-trial institution, rarely start pre-trial investigations. Only 5 investigations out of 99 were carried out in 2008, 4 out of 39 in 2007 and 3 out of 20 in 2006<sup>110</sup>. Nevertheless the Special Investigations Department was demolished from the beginning of 2010, transferring its functions to one person in the Pre-trial investigations department.

For more information about racial profiling in the media, please refer to previous chapters.

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<sup>110</sup> Lietuvos Respublikos Generalinė Prokuratūra, Nusikalstamų veikų, padaromų dėl rasinės, etninės, tautinės, religinės neapykantos, kitokios netolerancijos ir diskriminavimo, ikiteisminių tyrimų rezultatų, problematikos, tendencijų ir prevencijos priemonių apibendrinimas, 2008-12-31, Nr. 12.14-41  
<http://www.prokuraturos.lt/nbspnbspnusikalstamai%C5%BEmoni%C5%A1kumui/STSapibendrinimai2008m/tabid/430/Default.aspx>, accessed May 15, 2010. p. 9

In this context, the report of the European Union Agency's of Fundamental Rights on racism and xenophobia for Lithuania in 2007 should be taken into account. The report stated: "The very low number of recorded complaints in some Member States, despite NGO reports and independent research surveys pointing towards the existence of ethnic discrimination in these countries (including Lithuania), could indicate a lack of awareness of the existence and functioning of these specialised bodies"<sup>111</sup>.

## Article 7

### i. Education

Refer to chapter analysing the implementation of the Article 5, part "Education". There is a lack of systematic approach that should be adopted by the State to include the human rights education into school curriculum. As the current curriculum is not sufficient, besides teachers do not have certain skills, knowledge and attitudes to deliver lessons "on combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups" (Article 7 of the Convention).

In 2010, the Ombudsperson of Equal Opportunities together with Tolerant Youth Association published the findings of a study on the education about tolerance and multiculturalism in Lithuanian schools, which was based on a survey of teachers and high school students. The survey of teachers showed that almost 50 per cent of teachers agree that the school pays insufficient attention to the issues of social and cultural diversity and respect for human rights. One third of teachers rarely discuss stereotypes, their roots and consequences, with their students, and even fewer try to stimulate students' interest in different cultures. The survey of students found that students from ethnically heterogeneous areas (Vilnius city) were more tolerant towards ethnic, religious and racial differences than students from ethnically homogeneous areas (Kaunas city). More than one third of students claimed that at school they were not exposed to activities aimed at multicultural awareness, and there was insufficient attention for such issues as social and cultural differences and respect for human rights.<sup>112</sup>

### ii. Media and Information

For more information refer to chapter analysing the implementation of the Article 4, part "Media and Internet".

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<sup>111</sup> The European Union agency of fundamental rights, Report on racism and xenophobia in the Member States of the EU, 2007, <http://infoportal.fra.europa.eu/InfoPortal/publicationsFrontEndAccess.do?id=11016>, accessed July 6, 2010.

<sup>112</sup> Lygių galimybių kontrolieriaus tarnyba, Tolerantiško jaunimo asociacija (2010), Tolerancija ir multikultūrinis ugdymas bendrojo lavinimo mokyklose, <http://www.lygybe.lt/assets//visas%20leidinys.pdf>