

REFERENCE: GH/fup-135

27 July 2022

Excellency,

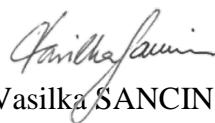
In my capacity as Special Rapporteur for Follow-up to Concluding Observations of the Human Rights Committee, I have the honour to refer to the follow-up to the recommendations contained in paragraphs 10, 20 and 22 of the concluding observations on the report submitted by Lithuania ([CCPR/C/LTU/CO/4](#)), adopted by the Committee at its 123rd session held from 2 to 27 July 2018.

On 23 June 2020, the Committee received the reply of the State party. At its 135th session (27 June to 27 July 2022), the Committee evaluated this information. The assessment of the Committee and the additional information requested from the State party are reflected in the Addendum 3 (see [CCPR/C/135/2/Add.3](#)) to the Report on follow-up to concluding observations (see [CCPR/C/135/2](#)). I hereby include a copy of the Addendum 3 (advance unedited version).

The Committee considered that the recommendations selected for the follow-up procedure have not been fully implemented and decided to request additional information on their implementation. Given that the State party accepted the simplified reporting procedure, the requests for additional information will be included, as appropriate, in the list of issues prior to submission of the fifth periodic report of the State party.

The Committee looks forward to pursuing its constructive dialogue with the State party on the implementation of the Covenant.

Please accept, Excellency, the assurances of my highest consideration.



Vasilka SANCIN

Special Rapporteur for Follow-up to Concluding Observations  
Human Rights Committee

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## Evaluation of the information on follow-up to the concluding observations on Lithuania

<i>Concluding observations (123rd session):</i>	<a href="#">CCPR/C/LTU/CO/4</a> , 20 July 2018
<i>Follow-up paragraphs:</i>	10, 20 and 22
<i>Information received from State party:</i>	<a href="#">CCPR/C/LTU/FCO/4</a> , 23 June 2020
<i>Information received from stakeholders:</i>	<a href="#">LGL – National LGBT Rights Organization, 27 July 2020; Office of the Equal Opportunities Ombudsperson, 28 July 2020</a>
<i>Committee's evaluation:</i>	10[B], 20[B][A][C] and 22[B][C]

### Paragraph 10: Discrimination on the grounds of sexual orientation and gender identity

The State party should intensify its efforts to eliminate discrimination, in law and in practice, against persons on the basis of their sexual orientation or gender identity, ensure that legislation is not interpreted and applied in a discriminatory manner against lesbian, gay, bisexual, transgender and intersex persons and refrain from adopting any legislation that would impede the full enjoyment of their Covenant rights. It should review relevant legislation to fully recognize the equality of same-sex couples and ensure that legislation concerning the change of civil status with respect to gender identity is clear and applied in accordance with the rights guaranteed under the Covenant, including through the enactment of legislation on gender reassignment procedures.

#### Summary of the information received from the State party

The Law on Equal Opportunities and the Labour Code prohibit discrimination, including on the grounds of sexual orientation. In its decision of 11 January 2019 concerning family reunification of a same-sex couple whose union was concluded abroad, the Constitutional Court stated that article 29 of the Constitution prohibited discrimination based on gender identity and/or sexual orientation, and that under the Constitution, the concept of the family was neutral from the gender perspective. In 2019 and 2020, the Minister of Justice and the Minister of Health removed legal provisions that could discriminate against transgender persons in legal acts. In 2017, a working group established by the Ministry of Justice prepared a draft law on recognition of gender identity, providing also for the administrative procedure for changing entries in civil status records. The Action Plan for the Promotion of Non-Discrimination (2017–2020) continued to aim to reduce discrimination on all grounds, including gender and sexual orientation. Research, awareness-raising campaigns and training courses for police officers, social workers and young people have been conducted on the issue of discrimination. In 2019, the Office of the Equal Opportunities Ombudsperson reviewed the situation of transgender people.

#### Summary of the information received from stakeholders

##### *Office of the Equal Opportunities Ombudsperson*

While the parliamentary Committee on Human Rights proposed on 30 May 2019 to reverse an amendment to the Law on Equal Treatment, reinstating the previous definition of family members, on 22 January 2020, the Government proposed to abolish that definition and to include registered partners in the definition of family members. The draft law is currently under consideration in parliamentary committees.

There are discriminatory implications in the Law on Family Strengthening, the amended Law on the Fundamentals of Protection of the Rights of the Child and the amendments of



the Civil Code, which introduced the concept of the “complementarity of maternity and paternity”, defined as the child’s intrinsic need to have two parents of different sexes.

The Lithuanian legal system does not recognize the legal categories of “gender identity” or “gender expression”, rendering discrimination against transgender persons not punishable by law. Furthermore, the fact that gender identity is not included as a protected ground in the proposed amendment of the Law on Equal Treatment constitutes a legal obstacle for the Ombudsperson to investigate complaints submitted by transgender persons.

The absence of an administrative procedure for legal gender recognition and of procedures regulating trans-specific health care create difficulties on a daily basis for transgender persons.

In 2019, a national review of the situation of transgender persons revealed that they continue to face challenges regarding data protection, personal identification, divorce and dismissal from certain professions due to the diagnosis of “gender dysphoria”. A draft law on recognition of gender identity has been prepared, but not adopted.

Legal provisions banning transgender persons from exercising as judges were amended in May 2019, and those concerning attorneys, notaries and bailiffs were amended in February 2020.

Between 29 August 2018 and 27 July 2020, the Ombudsperson received nine complaints on the grounds of sexual orientation. While an amendment to the Law on the Protection of Minors from the Detrimental Effects of Public Information was registered in 2017 to ensure that it could not be used to discriminate on the grounds of sexual orientation, no legislative procedure has yet been initiated. Most of the measures in the Action Plan for the Promotion of Non-Discrimination relating to sexual orientation and gender identity are fragmented and were included with the aim of implementing projects funded by the European Union or the Council of Europe, rather than strategically improving the situation of lesbian, gay, bisexual and transgender persons. Their impact is not assessed using any measurable indicators, and no funding has been allocated from the national budget for such measures.

#### *LGL – National LGBT Rights Organization*

Only 23 per cent of transgender persons report being aware of national equality bodies and they have submitted few complaints to date. Gender identity is not explicitly included as a protected ground in the proposed amendment to the Law of Equal Treatment. There are possible ties between an anti-lesbian, gay, bisexual and transgender organization, the Free Society Institute, and political party leaders who are reported to have worked on that amendment. On 18 June 2019, the parliament rejected a petition to include gender identity and gender expression in the list of protected grounds in the Labour Code and the Law on Equal Opportunities. The Law on the Protection of Minors from the Detrimental Effects of Public Information has been discriminatorily interpreted and applied many times. There have been no legislative developments concerning same-sex family rights and there is no legislation defining civil unions or stipulating the relevant registration procedure, despite the fact that civil unions are recognized under the Civil Code. Given that no administrative procedures for legal gender reassignment have been established, judicial procedures remain the only option.

#### **Committee’s evaluation**

[B]

While noting the implementation of the Action Plan for the Promotion of Non-Discrimination and the removal of discriminatory legal provisions against transgender persons in relation to certain professions, the Committee regrets the lack of information on measures to prevent the discriminatory interpretation and application of legislation. It reiterates its recommendation and requests information on measures taken to: (a) assess the impact of the Action Plan on the Covenant rights of lesbian, gay, bisexual and transgender individuals; (b) include gender identity as a protected ground in the Law on Equal



Treatment; and (c) prevent and prohibit discriminatory interpretation and application of the Law on the Protection of Minors from the Detrimental Effects of Public Information.

While welcoming the Constitutional Court's decision of 11 January 2019 recognizing a same-sex couple's union concluded abroad, the Committee remains concerned at the lack of information on specific measures taken to fully recognize the equality of same-sex couples and provide administrative procedures for gender reassignment. It reiterates its recommendation and requests information on the status of the Law on Equal Treatment in relation to the definition of the family, the draft law on recognition of gender identity and measures taken to define civil unions and the relevant registration procedure.

## **Paragraph 20: Migrants and asylum seekers**

### **The State party should:**

- (a) Avoid placing asylum seekers in administrative detention and provide effective alternatives to detention so that detention is used only as a last resort and for as short a period as possible, as well as reduce the length and practice of detaining migrants, and ensure that migrants have access to a lawyer and legal aid where the interests of justice so require and are provided with information on their rights, including at the border;**
- (b) Further improve reception conditions in the Foreigners' Registration Centre by ensuring adequate access to social, psychological, rehabilitation and health-care services;**
- (c) Ensure that all applications for international protection at the border and in reception and detention facilities are promptly received, registered and referred to the asylum authority, and effectively investigate all allegations of denials of entry and access to asylum procedures for persons seeking international protection;**
- (d) Ensure against unlawful or arbitrary detention of asylum seekers at the border, including by clarifying in the Aliens Law that the holding of asylum seekers at the border, including in the transit zones, constitutes detention with accompanying procedural and judicial guarantees;**
- (e) Strengthen training for the staff of migration institutions and border personnel on the rights of asylum seekers and refugees under the Covenant and other international standards.**

### **Summary of the information received from the State party**

- (a) Asylum seekers are detained only exceptionally. Those who could be detained under the Law on the Legal Status of Aliens are usually accommodated in the State-run Foreigners' Registration Centre, where their freedom of movement is not restricted. The number of foreigners in detention has fallen in recent years. All asylum seekers are informed about their rights and obligations and are entitled to State-guaranteed legal aid. Any detention order or alternative form of detention can be appealed.
- (b) In 2019, the Foreigners' Registration Centre was renovated, increasing its capacity. A checkpoint and a dormitory for vulnerable asylum seekers were opened. In 2019, agreements were signed to provide medical services in other health-care institutions, improve reception conditions and provide social, legal, translation, medical and psychological services. Additional posts have been created for social workers, psychologists and medical staff in the Centre.
- (c) Asylum applications submitted at border checkpoints and subdivisions of the State Border Guard Service are registered and forwarded to the Migration Department, within the Ministry of the Interior. Asylum seekers are notified about the right to asylum and can access legal aid. The Service informs the Office of the United Nations High Commissioner for Refugees (UNHCR) about asylum seekers to enable it to monitor the asylum application procedure.



(d) Domestic law does not allow for the detention of asylum seekers at the border while their asylum applications are being processed. At border checkpoints or transit zones, asylum seekers are accommodated in specially equipped premises or elsewhere, in accordance with the decision of the Migration Department.

(e) Between 2018 and 2020, training courses were organized for State Border Guard Service officials and civil servants of the Migration Department, including on the reception of asylum applications at the border, reception conditions, identification of victims of human trafficking, information on countries of origin and issues relating to gender identity and sexual orientation.

### **Committee's evaluation**

[B]: (a), (c) and (e)

The Committee welcomes the decrease in the number of asylum seekers in detention and the duration of their detention. It requests information on the alternatives to detention used, the frequency of their use, and the number of judicial challenges made regarding detention of asylum seekers, including their outcomes, during the reporting period.

While noting the information on the agreement with UNHCR and the availability of legal aid, the Committee regrets the lack of information on any investigations conducted into denials of entry and access to asylum procedures. It reiterates its recommendation.

While noting the training courses provided for State Border Guard Service officials and civil servants, the Committee requests information on the frequency of the courses, the number of participants and whether the courses are mandatory.

[A]: (b)

The Committee welcomes the renovation of the Foreigners' Registration Centre, the construction of a dormitory for vulnerable asylum seekers and the employment of additional medical staff, social workers and psychologists. It requests information on the procedures for asylum seekers to access social, psychological, rehabilitation and health-care services in the Centre and statistics on the number of beneficiaries of these services during the reporting period.

[C]: (d)

The Committee regrets the lack of information on measures taken to ensure against unlawful or arbitrary detention of asylum seekers at the border and on measures taken to clarify in the Aliens Law that such holding of asylum seekers at the border constitutes detention with accompanying procedural and judicial guarantees. It reiterates its recommendation.

## **Paragraph 22: Persons deprived of liberty and detention conditions**

### **The State party should:**

**(a) Ensure that alternatives to detention, including bail, are always considered and that pretrial detention is always an exceptional, reasonable and necessary measure based on individual circumstances and is as short as possible;**

**(b) Expedite its efforts to improve conditions and reduce overcrowding in places of deprivation of liberty, including by taking account of the recommendations of the Seimas Ombudsmen's Office and those of the Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and ensuring that conditions in places of detention are in line with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules);**

**(c) Ensure that all allegations of ill-treatment by personnel in places of deprivation of liberty are promptly investigated, that perpetrators are prosecuted and, if convicted,**



**punished with appropriate sanctions and that victims have access to effective remedies;**

**(d) Ensure that persons deprived of liberty are provided in practice with all legal safeguards from the very outset of deprivation of liberty.**

#### **Summary of the information received from the State party**

(a) The Ministry of Justice is drafting amendments to the Code of Criminal Procedure to improve the legal framework on bail. Statistics demonstrate that the use of arrests has decreased and that use of alternative measures has increased.

(b) The prison population has gradually decreased. The Criminal Code, the Code of Enforcement of Punishments and the Code of Criminal Procedure were amended with regard to alternatives to and suspension of imprisonment. Some 86 persons have been pardoned under the Law on Amnesty (No. XIII-1640). From 1 July 2020, the amended Code of Enforcement of Punishments will expedite the parole process by applying the Parole Commission's decision to certain cases. Those who have served three quarters of their sentence will be released on parole.

Order No. V-277 of 1 August 2019 is aimed at implementing the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment and Punishment. Lukiškės Remand Prison has been closed, and several prisons are being renovated, including by converting dormitories into cells with the minimum requisite living space, new cells will be built and prisoners are being encouraged to engage in an occupation.

Four halfway houses have been set up for detainees undergoing rehabilitation. As at 28 April 2020, five women and five children were living in the mother and child unit in one correction facility, allowing for reduced social exclusion of the children of convicted women and enhancing the social rehabilitation process. The amendment to article 90 of the Code of Enforcement of Punishments allows persons convicted of less serious crimes to serve their sentences in open prisons. The 2019 amendments to the Criminal Code allow for life imprisonment to be replaced with fixed-term imprisonment and release on parole in case of such replacement.

Since 2019, the Prison Department Hospital has provided primary ambulatory health-care services, ensuring the independence of health-care staff and provision of adequate treatment. Under the amended law on insurance, prisoners are covered by the State health insurance. The procedure for controlling the quality of the food served in detention facilities has been improved.

(c) The staff and heads of detention facilities are regularly reminded about the rights of prisoners. When staff notify the authorities that they have used force, the circumstances are verified and any signs of criminal acts are investigated. Alleged violations in the Prison Department can be reported through a hotline or by email. The Director of the Prison Department has approved several orders concerning the rights and responsibilities of employees. In 2018, there were five pretrial investigations into alleged acts by custodial officers, in two of which the perpetrators were fined. In 2019, there were six pretrial investigations. Prosecutors attended training courses on coercive measures, human rights and investigation of crimes committed by civil servants. Many police detention facilities are equipped with remote monitoring and communication systems.

(d) New detainees are informed about their rights and relevant laws. Foreign detainees are assisted by employees who speak their languages and provided with the contact information of their embassies or consulates. Relevant laws are translated into Russian and English. Detainees are guaranteed the right to a confidential conversation with a lawyer. A notice of detention is sent to a designated person within the prescribed period of time.

Convicted persons have the right to a second opinion from an equally qualified doctor. Those in open colonies, the mother and child unit and the halfway houses can visit the doctors of their choice.



### Committee's evaluation

[B]: (a) and (b)

The Committee welcomes the proposed amendment to the Code of Criminal Procedure on bail and the increased use of alternatives to imprisonment. It requests information on the adoption of the amendment and statistics on the number of individuals in pretrial detention and those who were served with alternative measures to imprisonment during the reporting period.

The Committee welcomes the measures taken to improve material conditions and overcrowding in prisons. It requests information on the impact of those measures, including on the prison occupancy rate and the number of releases on parole granted during the reporting period.

[C]: (c) and (d)

The Committee is concerned at the continued low number of pretrial investigations conducted into ill-treatment by prison staff and the lack of information on effective remedies provided to the victims. It reiterates its recommendation and requests statistics on the number of complaints received during the reporting period on ill-treatment and excessive use of force in places of deprivation of liberty, and their outcomes.

While noting the information on existing safeguards available to detained persons, the Committee regrets the lack of information on specific measures taken after the adoption of the concluding observations to implement its recommendation. It reiterates its recommendation.

**Recommended action:** A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be included in the State party's next periodic report.

**Next periodic report due:** 2027 (country review in 2028, in accordance with the predictable review cycle).

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