



**LIETUVOS RESPUBLIKOS SEIMO KONTROLIERIŲ ĮSTAIGA
THE SEIMAS OMBUDSMEN'S OFFICE OF THE REPUBLIC OF LITHUANIA**

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REGARDING THE LITHUANIAN SUBMISSION TO THE UN COMMITTEE AGAINST TORTURE FOR THE REVIEW OF THE 4TH PERIODIC REPORT OF THE REPUBLIC OF LITHUANIA (NHRI AND NPM REPORTING)

On 3 December 2013, the Seimas of the Republic of Lithuania ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) and designated the Seimas Ombudsmen's Office as the national preventive mechanism (NPM). Amendments to the Law on the Seimas Ombudsmen entered into force on 20 January 2014, giving the Seimas Ombudsmen's Office the mandate to implement the national prevention of torture by regularly visiting places of detention. Moreover, in 2017 the Seimas Ombudsmen's Office was accredited as a National Human Rights Institution (NHRI) in line with the Paris Principles (Status 'A').

In exercising the functions of NPM and NHRI, we present the assessment of the critical human rights issues in Lithuania following the obligations of the Republic of Lithuania enshrined in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

1. Regarding the rights of migrants, refugees, and asylum seekers

In carrying out the national prevention of torture, officers of the Human Rights Division of the Seimas Ombudsmen's Office regularly inspect the places of detention of foreigners where during the reporting period several violations were detected. However, given the postponed review of the Republic of Lithuania report and the increase in irregular migration in Lithuania, this alternative report also covers the human rights problems of the factual period.

During inspections carried out in 2019 at the Foreigners Registration Centre of the State Border Guard Service under the Ministry of the Interior (the Center), it was found that persons with disabilities are kept in premises that are not adapted to them, cleanliness and order are not adequately ensured in the premises of the Centre; the standards of provision of hygiene facilities for the persons held are not sufficient to ensure personal hygiene, and therefore the human dignity of such persons is degraded. Also, violations of the right to adequate food (including those corresponding to religious beliefs);

violations of the right to freedom of religion and violations of high-quality and timely access to health services were found. Furthermore, the vulnerability of asylum seekers and their special needs were not completely and effectively-identified; insufficient attention was paid to the protection of children's rights and legitimate demands, and possible violations of the mistreatment of children and their right to freedom and security were also identified. Moreover, in the opinion of the Seimas Ombudsman, the right of detained foreigners and asylum seekers to access decent quality services and information was infringed due to insufficient knowledge of foreign languages of employees, lack of opportunities to improve the qualification of employees, problems of the management (including distribution of workload of personnel carrying out the assessment of persons, proper filling in and storage of the evaluation documents) and lack of use of competent external institutions and specialists. These inspections have produced some positive results – the rates of catering expenses allocated to the residents of the Centre were being increased, persons with special needs were given access to food according to an individually balanced menu, a new building for asylum seekers was installed in the premises of the Centre.

Inspections were also carried out at the border inspection posts. Border control posts revealed the failure to ensure the smooth functioning of the electronic register system, making it more difficult for officials to process the delivered personal data, the inability to adapt the administrative, temporary detention and asylum seekers' premises to persons with disabilities, and the failure to guarantee minimum natural and/or artificial lighting.

Unfortunately, during inspections in 2021, significant shortcomings in ensuring human rights and freedoms were identified due to the current emergency at the border with the Republic of Belarus.

In June 2021, at the beginning of the influx of irregular migrants from Belarus, the Seimas Ombudsman visited the Foreigners Registration Centre, where the conditions of detention of migrants and future perspectives in solving the increasing migration flows to the Republic of Lithuania were assessed. Problems related to the lack of interpreters, communication shortcomings, and provision of legal and psychological assistance were identified. Migrant families with children were housed in buildings at that time. However, due to the shortage of rooms, single men were allocated to newly constructed tents camp where they were provided only with minimum accommodation conditions – beds, shower and toilets were built on sand without the necessary drainage. According to the state officials, this was a temporary measure, and it was planned to move an increasing number of migrants in modular houses in the near future. However, the human rights situation of migrants has not been improved as fast as expected, and the problems have only increased during the following months.

The amendments to Article 71(1¹) of the Law of the Republic of Lithuania on the Legal Status of Aliens, which took effect on 23 July 2021, which were criticised by the Seimas Ombudsperson and UN High Commissioner for Refugees, established that given declared a state of war, a state of emergency, also emergency or emergency event due to a mass migration provides for a possibility to restrict rights of asylum seekers if they cannot be ensured because of objective and valid reasons. However, such restrictions shall only be possible for a temporary period and in observance of the principle of proportionality, while restricting the right to material reception conditions, the right to receive basic medical aid, to make use of state-guaranteed legal assistance and the rights of vulnerable persons to make use of conditions that meet their special needs shall be prohibited under all circumstances.

Multiple problems related to the protection of the rights and freedoms of foreigners during the Seimas Ombudsman's Office inspections carried out in places of deprivation of liberty of foreigners on 2-6 August 2021, 24-26 August 2021 and 15 September 2021 were identified.

1.1. Regarding the provision of material reception conditions

Most foreigners, including minors and other vulnerable persons, were settled in premises of the State Border Guard Service facilities, accommodating them in temporary tents and hangars, while several groups of foreigners were provided with an opportunity to stay in official premises or garages of border guards. It was determined during the inspections that these foreigners had problems regarding cold, humidity, shortage of apparel, footwear suitable for cold weather, also lack of personal hygiene items. Tents got wet when it rained, with water getting inside through ventilation openings in the roof. Thus, mattresses used to sleep on, and linen got wet on rainy days. It should be noted that in the days the inspections were performed, the temperature during the night at the inspected location was dropping as low as 3,8° C and many of the people, including vulnerable groups, had to live under these conditions for nearly two months.

There are showers and toilets set up in containers (modular houses), but they are shared by men and women; locks in some toilets were broken; showers were separated by curtains, which does not ensure privacy; the interviewed women said they did not feel safe. Moreover, hygiene requirements were not provided in these sanitary facilities, and there were cracked sink pipes, some showerheads were broken, the pungent odour was prevalent. It should be noted that bio-toilets set up in specific campsites did not meet the actual needs of migrants – they were rarely emptied (once per week), dirty and overflowing. The inspections revealed that people living there were not provided with cleaning supplies; thus, they were not able to clean the facilities and to take care of their hygiene themselves. Foreigners said that the hot water was only enough for 4-5 persons to take a shower with an hour wait for the water to warm up for others to shower. Persons living in these premises for several months were only provided with daily dry food rations, which included, for example, a can of meat or poultry, a can of corn or chickpeas, a cup of instant soup, a pack of biscuits, a cereal bar, a pack of breadsticks, a pack of tortilla scones or grain bars, a 1.5-litre-bottle of water, a pack of tea and a pack of sugar (enough for one cup of tea). Sometimes these dry rations were supplemented with products brought by the Lithuanian Red Cross or other persons providing help to asylum seekers. The interviewed foreigners said that this food was not enough, with a particular lack of food suitable for children, such as milk or special baby formula. There are mobile stores arriving at some camps. However, the foreigners said that goods sold there were expensive, and they were rapidly spending their savings. It should be noted that during the second visit, foreigners in some temporary shelters were supplied with hot food, and the foreigners did not complain of its quality. However, hot food in the majority of border guard stations has never been delivered, because according to officers, municipalities where those shelters are located cannot find food suppliers. Some of the persons accommodated in premises of former schools and children foster homes said that they did not get enough food and bottled water. They would get a cup of yoghurt and a pack of biscuits for breakfast, then a warm meal consisting of, for example, spaghetti, fried chicken and some vegetables (peas, carrots) for lunch, and pancakes for dinner. The interviewed foreigners said that they would not always be served hot food, and vegetables and fruits were served to them very rarely.

Premises of former schools and children foster homes, where foreigners have been temporarily accommodated, are in poor condition; there is mould in many places. Foreigners living there also complained about a lack of hygiene items and cleaners, clothes, thick blankets, shortage of hot water and tap water of poor quality. There were no showers in one of them for nearly a month, and the foreigners had no place to shower.

There are 20-30 persons living in some premises (rooms), some people sleep in corridors. There are 67 persons accommodated in a sports hall in one of the buildings, i.e., men, women and minors living in a single space, there was a shortage of air, noise, no privacy was ensured, the room was not cleaned, people slept on mattresses arranged in the hall. It is also worth mentioning that people had to stay in the hall all the time, letting them outside for a mere 15 minutes per day. In Seimas Ombudsmen's view, such accommodation conditions amount to detention, though the minimum detention standards were also not met.

1.2. Regarding the provision of basic medical aid

The foreigners are provided with personal health care services only when emergency medical aid is required, but it should be noted that there is a shortage of medical staff and ambulance cars even to ensure these basic needs. Personal health care specialists do not regularly visit border guard stations, but there are some places of detention of foreigners where they are visited by individual health care specialists once per week. Thus, health care services in different places of detention of foreigners were not organised in the same way.

The inspections revealed that people infected or having had contact with a person infected with COVID-19 (coronavirus infection) stayed in foreigner detention premises; for at least a month, there were no separate premises set up for infected people to self-isolate. Moreover, it was determined that people were not consistently and uniformly tested for COVID-19 (coronavirus infection). Most foreigners were tested upon arrival. However, many persons that were not tested were accommodated in the same tents with tested people altogether.

1.3. Regarding special needs of vulnerable persons

Only informal procedures for identifying vulnerable persons have been used in detention places of foreigners, or no attempts to identify were made altogether. Minors, including children, with disabilities, persons with health problems, pregnant women, elderly persons, were also accommodated in tents regardless of their vulnerabilities. Not all pregnant women had medical checkups, and they did not get any supplementary or special meals.

The inspections revealed that to assess a person's vulnerability initially, officials visually inspect and interview people and monitor their behaviour in places of their accommodation. According to interviewed officials, families, young children, pregnant women, and people with disabilities are identified as vulnerable groups. However, individuals are not asked about their sexual orientation or gender identity during the initial assessment (interview), so the vulnerability of foreigners due to their belonging to sexual minorities and their possibly suffered violence, as a result, are not assessed and, consequently, special needs of LGBTQ + people are not identified immediately. Moreover, officials

do not classify members of the LGBTQ + community as vulnerable even though such groups were identified inside the camps.

Given that the procedures for assessing the vulnerability of individuals in their temporary accommodation are not clear and uniform, and not all the sites visited during inspections had information on foreigners belonging to the LGBTQ + community living there, their vulnerability, cause a risk that they may face situations which can equal to cruel, inhuman, and degrading behaviour.

Places of temporary accommodation of foreigners also do not assess whether a person is a victim of trafficking, torture, rape or other severe psychological, physical, or sexual violence, and thus has special needs. There is also no clear-cut procedure or methodology for assessing a person's vulnerability in this regard or to identify a person who has experienced violence and provide the help they need.

In visited places, psychological and social assistance was not provided for foreigners. There were no education or leisure activities organised for minors.

1.4. Regarding access to information, translation services and legal aid

One of the main problems mentioned by foreigners in all the places of detention of foreigners that were visited during the inspections was a lack of information on their rights and duties, procedure of filing asylum applications and their examination, the planned duration of their stay in places of detention and procedures applicable in their respect, also information about organisations that provide help and information for asylum applicants in Lithuania. There were persons in the places of detention of foreigners who said they did not know if they had applied for asylum and how to do so, although some of them had been held in temporary accommodation for more than a month. None of the foreigners who spoke during the monitoring visits remembered that they would be issued with a certificate of acceptance of the application for asylum, which they said they had not seen.

During the inspections, it was established that foreigners did not know (they had not been provided with information) the procedure for submitting applications for asylum in the Republic of Lithuania in foreign countries either. This was because, until 21 September 2021, when a corresponding legal act was adopted, it was not clear whether and how persons in foreign countries could submit asylum applications at diplomatic missions or consular posts of the Republic of Lithuania in a foreign state.

Many foreigners also complained about their mobile phones that were seized. They said there were no public phones in places of detention which they could use to contact their family members to inform about their status or organisations who could provide them with information.

According to officers of the border guard station, all accommodated persons submitted their asylum applications in an oral form, and this was check-marked in their registration form; however, it was determined during the inspection that not all the registration forms contained a question regarding the need for asylum, therefore when completing some of the registration forms, foreigners were not able to inform about the need for asylum.

The interviewed foreigners said that they were not familiarised with the asylum procedure and the possibility to make use of free legal services. They said that they were not provided with any information altogether. Foreigners find it hard on a daily basis to communicate with officers, medical staff and other persons providing help to them as there are no interpreters in detention centres, and foreigners are not able to directly explain their needs to persons rendering assistance to them.

1.5. Regarding the denial of the right of persons to apply for asylum

Under Article 65 of the Law of the Republic of Lithuania on the Legal Status of Foreigners, a foreigner has the right to apply for and receive asylum in the Republic of Lithuania following the procedure established by the Law. In case there are indications that a foreigner present at the place of detention, at a border inspection post or in a transit zone may wish to apply for asylum, he or she shall be provided with information on this law and the applicable procedures in a language that they understand.

By Decision No 10V-20 of 2 August 2021 of the Minister of the Interior of the Republic of Lithuania–Head of State-level Emergency Operations of the Republic of Lithuania, institutions providing and assisting in ensuring the protection of the State border of the Republic of Lithuania with the Republic of Belarus were tasked with ensuring that persons could cross the border on land only through border checkpoints, and that persons intending to cross the border in unauthorised places are not allowed into the territory of the country and are diverted (required to travel) to the nearest existing international border checkpoint, and persons who have crossed the border in unauthorised places and are located in the border section and seeking asylum in the Republic of Lithuania are not allowed into the territory of the country and are removed from the territory of the country directed (required to travel) to the nearest existing international border checkpoint or diplomatic mission of the Republic of Lithuania. In addition, this decision provides that, if necessary and in particular, deterrent actions and other measures established in Paragraph 2 of Article 28 of the Republic of Lithuania Law on the Border of the Republic of Lithuania and its Protection must be used against persons who do not take into account the aforementioned legitimate demands or instructions of officials, and if persons disregard these measures and endanger the life or health of officials or other persons by their active actions or possessions, proportionate measures established in Paragraph 3 of Article 28 of the Republic of Lithuania Law on the State Border and Its Protection may be used against them.

The Seimas Ombudsman's Office inspection performed during the night stand-off on the border section of Lithuania with the Republic of Belarus on 6 August 2021 has revealed that people, including a woman with a young child, who was trying to cross the border in an unauthorised place and expressed their desire to seek asylum in Lithuania, were not allowed into the territory of the country by officials of the Security Border Guard Service. It should be noted that these foreigners were not directed to the nearest existing international border checkpoint or diplomatic mission of the Republic of Lithuania, but pushed back towards the Republic of Belarus. The officials who carried out the actions of reversal (deterrence) of persons did not provide them with any information about the procedure for submitting an asylum application in Lithuania, failing to be convinced that persons knew where they could legally apply for asylum in the Republic of Lithuania. At the time of this event, the vulnerability of the individuals was not assessed, emergency medical assistance was not called even though foreigners were tired, thirsty, hungry, crying for help, pleading for asylum. During the same night standoff on the border section of Lithuania with the Republic of Belarus, officials of the Security Border Guard Service did not allow a group of 34 people, including 15 children. Having assessed that due to

Belarusian border officials standing on the other side of the border, the said persons did not have the opportunity to return to Belarus, Security Border Guard Service officers took them by minibus to the farther border mark, where they were disembarked and escorted towards Belarus. It should be noted that on that particular day, 6 August 2021, the average daily temperature ranged from 13.1 to 19.7 °C. The rainfall recorded that night was as high as 19.5 mm; therefore, due to adverse weather conditions, the health and life of migrants who were deterred from the Lithuanian border and directed towards Belarus could be seriously threatened.

According to officials from the State Border Guard Service, Belarusian officials did not allow persons who were intending to cross the border of the Republic of Lithuania to return to Belarus. Furthermore, Belarusian officials were actively pushing migrants to Lithuania. For this reason, people are permanently stuck on the Lithuanian-Belarusian border, where they experience inhumane conditions due to freezing, lack of, among other things, food, drinking water, warm clothes, footwear, as well as urgent medical attention due to exhaustion and other possible health problems.

It is to be held that persons are directed towards Belarus using dissuasive actions at the Lithuanian border without being convinced that they will not be threatened therein by torture, inhuman or degrading treatment and that there are no risk factors that threaten the life or health of these persons, including by denying persons the opportunity to lawfully lodge an application for asylum in Lithuania which violates the right of persons in other countries to seek and exercise asylum against persecution and which prohibits conditions equivalent to torture, inhumanity and against human dignity in accordance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

2. Regarding the specific measures restricting human rights and freedoms taken during the pandemic caused by the Coronavirus infection (COVID-19 disease) in Lithuania

2.1. Regarding the isolation of persons in the premises provided by municipal administrations and the possibility to mandatory hospitalise or isolate a person by the decision of a doctor during the COVID-19 pandemic

In 2020 the Seimas Ombudsman conducted the investigation into the compliance of certain measures restricting human rights and freedoms with the country's international obligations in the field of human rights and freedoms during the quarantine regime declared in Lithuania from 16 March to 16 June 2020. The investigation, *among other things*, looked at issues related to the isolation of persons in the premises provided by municipal administrations and the mandatory hospitalisation of persons and/or compulsory isolation just by a doctor's decision.

Having assessed the circumstances of self-isolation of persons arriving from foreign countries in the premises provided by Vilnius City Administration on 24–25 March 2020, the Seimas Ombudsman concluded that these persons were isolated in the premises not suited to their needs and possibly not satisfying public health safety requirements, before isolation of the persons their age, sex, state of health, and special needs had not been taken into consideration, the persons were denied alternative possibilities of self-isolation at home or another place of residence, were not appropriately informed on what grounds they had to self-isolation in the premises provided by the municipal administration, and therefore, in the Ombudsman's assessment, the persons suffered significant inconveniences, stress,

and were exposed to the increased risk of being infected with COVID-19 disease. Therefore, the Seimas ombudsman found that the isolation of persons without assessing their individual situation and the possibilities to self-isolate and in the premises not adapted to this purpose was a disproportionately restricting measure and did not satisfy the legitimate purpose sought by its application and could amount to a degrading treatment prohibited under international law.

Moreover, the Seimas Ombudsman also submitted an assessment of the mandatory hospitalisation and mandatory isolation of persons by the decision of a single doctor, concluding that the provision of the Law on the Prevention and Control of Communicable Diseases of the Republic of Lithuania which authorises a doctor to impose mandatory hospitalisation and/or mandatory isolation by unilateral decision, without a court decision, and which can last up to one month, raises reasonable doubts as to the possible abuse of powers by doctors under this provision and the possible infringements of human rights and freedoms by such a risk management measure.

Having assessed the circumstances as mentioned above, the Seimas Ombudsman recommended to the Lithuanian Government to ensure that in all situations, even in the state of emergency, extreme situation, or any other special management regime in the country, decisions restricting certain rights of persons should be taken in accordance with the highest human rights standards and that measures restricting human rights and freedoms should be justified, necessary and do not restrict the rights and freedoms of the individual beyond what is needed to achieve the legitimate and socially important objectives; take active measures to improve the Law on the Prevention and Control of Communicable Diseases of the Republic of Lithuania so as to ensure the balance between individual rights and public interests.

2.2. Regarding the human rights issues of residents of social care institutions during the COVID-19 quarantine period

The Seimas Ombudsman conducted an investigation into the insurance of human rights and freedoms of people living in social care institutions during the quarantine period of COVID-19.

During the investigation, to obtain relevant information as quickly as possible, to learn about the actual situation of human rights and freedoms in social care institutions and to ensure that the measures taken during the COVID-19 pandemic by the Government do not disproportionately restrict or violate human rights, closed consultation-information gathering Facebook groups were established for adult and children's social care institutions. In these groups, the Seimas Ombudsmen's Office staff advised the employees of social care institutions on issues related to the protection of human rights and freedoms of the residents and shared relevant information and recommendations from various international organisations and national institutions, while social care institutions shared their experience, good practices and challenges encountered in their activities during the quarantine.

The data collected during the investigation revealed that residents of social care institutions were very concerned about limited contact with relatives (only phone or other means of communication were allowed), there was a significant decrease in regular daily and leisure activities (especially for nursed residents); institutions did not have the information and guidance on how to ensure the safety of both staff and residents; institutions that purchased protective equipment themselves faced the challenge of acquiring them at affordable prices. Employees of children's care institutions noted the increased

workload of social workers due to the need to organise additional activities for children, to help them learn teaching material and do their homework; When ensuring the possibility for each child to connect to remote education activities at a fixed time, the institutions faced the problem of computer shortage, and although some institutions were provided with computers by schools, others had to buy computers themselves; not all institutions (especially in rural areas) had a proper Internet connection; the remote education process lacked integrity, as different schools and teachers organised classes using various programmes, creating additional difficulties for children, especially for younger ones.

After assessing all the circumstances, the Seimas Ombudsman recommended that in ensuring measures for the prevention and control of the virus, the dignity of residents of social care institutions should be respected, their rights guaranteed, and the restrictions applied in accordance with the principles of legality, reasonableness, and proportionality and only to the extent necessary. Furthermore, the Seimas Ombudsman emphasised the importance of keeping residents informed on the situation, preventive measures and their causes, as well as how to protect their own and others' health, in a language / person they understand, also, to maintain regular contact with family and relatives by phone and other means of telecommunication free of charge; ensure residents the possibility to receive parcels from relatives and find ways to provide residents with the opportunity to shop periodically; If the institution has an enclosed yard – allow residents to stay in the fresh air from time to time and continue to organise daily activities individually or in small groups.

It should also be noted that upon receiving information about possible violations of human rights in certain social care institutions, the Seimas Ombudsman immediately requested the competent authorities to carefully examine the specific circumstances and carry out inspections within the scope of their competence, as well as to inform the Seimas Ombudsman of the results.

In response to the information provided by social care institutions on the challenges of the organisation of work and the prevention of the data virus and the received data about certain violations of quarantine requirements and other laws in some social care institutions, the staff of the Human Rights Division of the Seimas Ombudsmen's Office with the help from specialists of the National Public Health Center and the Institute of Hygiene organised the information-consultation workshop for social care institutions.

3. Regarding detention conditions in correctional institutions

The reduction in the number of arrested persons and convicts held in prison facilities reflects the positive efforts made by the State to address detention problems. However, there are still severe and pressing problems in correctional institutions: the modernisation of prison facilities; the lack of meaningful activities; the right to see family members, social rehabilitation of life-sentenced persons; issues related to solitary confinement; hygiene conditions; natural lighting of cell-type premises; access to education, limited internet connection, etc.

Inadequate detention conditions and insufficient efforts to modernise prison facilities remain a serious problem for the country. The Seimas Ombudsmen have repeatedly drawn the attention of state institutions to poor conditions of imprisonment in the country by recognising that in many institutions, the accommodation and hygiene conditions do not meet the requirements, premises are insufficiently maintained, heated, and ventilated. Therefore, humidity accumulates in cells and walls are covered

with mould. Also, minimum living space is not always ensured. It should be noted that Šiauliai Remand Prison is in deplorable condition; however, constructing a new detention facility in Šiauliai is stalling¹.

Moreover, the existing legal regulation disproportionately and unjustifiably restricts the possibilities of the employed convicts to accumulate the employment period required to receive the state social insurance benefit while working in prison institutions and thus become eligible for social guarantees (such as unemployment subsidy, retirement pension, etc.). Therefore, the Seimas Ombudsman recommended the Government consider the possibility of including all persons serving imprisonment sentences in the state social insurance system by insuring them with pension social insurance and unemployment social insurance.

In 2019, the decision was made to close the oldest prison in the country – Lukiškės Remand Prison, following the recommendations of the European Committee for the Prevention of Torture (CPT). It should be emphasised that the Seimas Ombudsman received a large number of complaints after an urgent procedure of relocation of prisoners from Lukiškės Remand Prison to other prison facilities. There was a constant flow of information about the allegedly infringed rights of the relocated prisoners. Therefore, the Seimas Ombudsman decided to carry out thematic visits to places where prisoners were relocated as well as Lukiškės Remand Prison. Inspections were carried out in 7 (seven) correction institutions. Lukiškės Remand Prison, Alytus Correction House, Marijampolė Correction House, Vilnius Correction House, Pravieniškės Correction House – Open Colony, Panevėžys Correction House and Šiauliai Remand Prison.

The Seimas Ombudsman noted that one of the most pressing problems during the relocation process was the lack of preparation. Most of the prisoners were warned about the transfer less than one day before they were transferred. In addition, there have been cases where inmates have not been informed of the transfer and only had one hour to prepare for it. Consequently, prisoners were not given the opportunity to appeal such decisions or to tell their relatives about the change of location.

During the investigation, the inmates explained to the Seimas Ombudsman that they requested to relocate and continue their sentences in correctional institutions closest to the place of residence of their relatives; however, the Prison Department responded that no legal acts obliged them to do so. In addition, the prison institutions that accepted the transferred convicts were not prepared to ensure that the transferred prisoners would be able to continue their studies or work activities, and some did not have the possibility to apply employment programmes to the relocated convicts due to their different detention regimes.

In view of this, the Seimas Ombudsman concluded that the transferred convicts lost their right to serve a sentence under conditions aimed at rehabilitation. After carrying out the assessment of the human rights situation in prison facilities, the Seimas Ombudsman presented the report and recommendations to the Prison Department, obliging them to take measures to ensure adequate accommodation, hygiene, material, and household provisioning conditions for the convicted, and recommended ensuring that all

¹ Alternative (Shadow) Report of the Seimas Ombudsmen's Office of the Republic of Lithuania on the implementation of the International Covenant on Civil and Political Rights in Lithuania, par. 3.2, link: <https://www.lrski.lt/wp-content/uploads/2020/12/Civil-and-political-rights.pdf>

relocated prisoners should be provided with an opportunity to continue their studies and work, thus ensuring proper social rehabilitation.

4. Regarding living conditions in social care homes

In the exercise of the functions of NPM, regular visits to social care homes are organised annually. During these inspections, the structure of personnel of mental health care institutions, the staff members' behaviour in respect of patients, the patients' awareness of their rights and obligations, the access to information, ensurance of the right to submit requests and their examination; the adaptation of the environment to persons with reduced mobility, the access to services of a psychologist and the ensuring of leisure and daily activities for residents are investigated.

It should be noted that in 2020, inspections carried out at Aknysta, Macikai and Skemai social care homes, hosting persons with mental disabilities and/or mental disorders, found severe violations of human rights, including illegal imprisonment, violations of use of physical restraint measures, provision of medical and social care services.

The inspections revealed that the personal alarms in social care institutions have deficiencies and are available not in all rooms and private hygiene rooms of residents. Thus, they are not guaranteed the possibility to call for help at any time of the day if necessary. The institutions have steep stairs, and thresholds lifts adapted to help persons unable to get out of bed are provided not everywhere, conditions for independent use of the elevator and lifts are not provided, not all entrances, stairs, lifts and elevators are adapted to the needs of the visually impaired (the facilities are not adequately marked), electricity switches are installed at a height inconvenient for persons with movement disability and not all information published on the information boards of social care institutions is accessible to persons with disabilities, thus restricting the independence of the disabled. Having assessed these circumstances, the Seimas Ombudsman concluded that the environment in social care institutions is not suitably adapted to the needs of persons with disabilities, thus violating the principle of equality of persons with disabilities with other persons in the field of the physical environment, other objects available to the public or access to services provided in Article 9(1) of the United Nations Convention on the Rights of Persons with Disabilities (hereinafter – the Convention on the Rights of Persons with Disabilities), in violation of the country's other international obligations in the field of protection of human rights and freedoms.

Furthermore, the inspections revealed that employees do not always knock before entering the rooms of the residents; some rooms in the institutions do not have lockable cupboards or cabinets to store the residents' belongings; screens are not always used during the process of personal hygiene of residents in rooms (changing diapers, washing); in most rooms and/or sanitary premises, locks are installed without ensuring the safety of residents because the staff would be unable to unlock them from outside in case of emergency. Having assessed these circumstances, the Seimas Ombudsman stated that the privacy of residents of social care institutions is not adequately guaranteed, thus violating the fundamental principle of respect for the natural dignity of the person established in Article 3 of the Convention on the Rights of Persons with Disabilities.

Moreover, social care institutions have permanently lockable units, including administrative premises, some residents are locked in their rooms, both during the day and at night, and some persons always

live in self-isolation premises, institutions do not have the approved internal order, which would establish cases and health conditions in which residents are accommodated in departments where the movement of persons is restricted. People with more severe disabilities are not allowed to take a regular walk, and not all residents are allowed to go to the store, and those who cannot be put in a wheelchair are not taken outside. A grave violation of the restriction of human liberty was found in the Skemai social care home, where one inmate was held behind self-made metal bars for more than two weeks (a pre-trial investigation was opened in respect of this potentially illegal deprivation of liberty of the person). Having assessed these circumstances, the Seimas Ombudsman concluded that freedom of movement of the residents of social care institutions is not adequately guaranteed, thus violating the principles of respect for human dignity, independence, Article 3 of the Convention on the Rights of Persons with Disabilities, Article 3 of the ECHR and the provisions of the Convention Against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment.

Inspections also showed that not all residents of social care institutions are given keys to lock up their rooms, there is no effort in institutions to ensure that the environment of the residents rooms is close to the home environment and cosy, so these facilities resemble hospital wards. When accommodating residents in rooms, their opinions are not considered, and the interests and needs of the persons assigned to live together are not coordinated. Personal belongings (payment cards, money, personal documents) of residents are kept in the offices of social workers, thus not ensuring that residents with better orientation in the environment can access their belongings independently. Moreover, institutions do not adequately ensure that the clothes of residents are personalised, residents are not encouraged to wash their clothes and do their rooms or cook on their own, the use of kitchens and all flatware is not encouraged. Having assessed these circumstances, the Seimas Ombudsman concluded that the independence of residents is not sufficiently encouraged in social care institutions, thus violating the principles of respect for autonomy, inclusion, freedom of choice, full effective participation and integration into society established in Article 3 of the Convention on the Rights of Persons with Disabilities;

In addition, inspections revealed that not all residents of social care institutions could engage inadequate activities suited to their individual needs, sufficient activities are not organised for those unable to get out of bed due to their health condition and other dependent residents, and they are not taken outside or to larger balconies. Institutions lack a more comprehensive range of activities suited to the needs of residents and strengthening their social skills, and they do not have enough books, computers, and internet access is also not provided everywhere. During the period of national emergency, even after the declaration of the end of quarantine, the participation of all residents in various activities, as the well as participation in the institutional activities of the council of residents of the institution, continued to be severely restricted. Moreover, individual social care plans of residents (hereinafter, the ISCP) are prepared and filled in not all cases, or this is done disregarding legal requirements and recommendations of the Department of Social Services Supervision under the Ministry of Social Security and Labour (SPPD). When preparing the ISCP, the needs of residents are not continuously assessed. Services provided to residents and measures aimed at achieving social care objectives are not regularly detailed in the ISCP. Therefore, ISCPs are prepared and implemented without taking into account the individual health characteristics of the resident, thus failing to pay the required attention to the development of the person's essential living and social skills, the formation of skills or the restoration of lost skills. Having assessed these circumstances, the Seimas Ombudsman concluded that the aforementioned weaknesses create preconditions for violating the right of residents

to the provision of quality social services, including activity and leisure services, proper encouragement and motivation of the person to become more involved in activities and assistance in developing and maintaining skills lost or missing due to health condition, as well as their right to participate actively in community life, to take decisions on engaging in activities meeting the needs of the person and other social care services, thus violating Article 30 of the Convention on the Rights of Persons with Disabilities and other international obligations of Lithuania in the field of human rights;

Finally, inspections exposed that physical restraint of a person in social care institutions is applied in violation of legal acts: the procedure established by legal acts for application of physical restraint measures are not complied with, the proper registration of application of restraint measures (self-made straitjacket and specialised restraint devices – waist, wrist, ankle fixation belts designed to safely restrain the torment and limbs of a troubled, agitated person) is not ensured, physical restraint measures are prescribed, and psychotropic drugs are injected to residents without physical examination of the person by a doctor psychiatrist, thus violating Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and provisions of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

In 2019, the Seimas Ombudsman conducted the investigation in the field of access of employees in adult social care institutions (social employees, nurses and their assistants) to vocational training and professional competence improvement in human rights issues and found that the Description of the field of nursing studies, on which higher education institutions rely when designing new or improving the existing programmes in the field of nursing studies, does not require graduates who have completed nursing studies to have knowledge and competences in the field of ensuring of human rights, nor does this requirement apply to all persons who have completed vocational training programmes in the social services and health care sectors. According to the Description of the procedure for improvement of professional competence, the knowledge and competence in the field of ensuring human rights are not included in the list of criteria for self-assessment of the needs for improvement of professional competence of a social worker. Consequently, although more than 170 programmes for improving the professional competence of workers in the social services area approved by order of the Director of the Department of Supervision of Social Services are currently in force and ongoing, training on ensuring human rights is carried out only under a few programmes.

In 2021, the Seimas Ombudsman conducted the investigation into the fundamental human rights problems in assessing the availability of psychological services to persons living in social care institutions to evaluate the need for psychological services, their supply and availability in adult social care institutions and, where necessary, to draw up conclusions and proposals (recommendations) regarding the access to these services and the improvement of the procedure for the provision of these services in terms of ensuring human rights and freedoms. Looking at the information obtained during this investigation is clear that psychological services in social care homes are not adequately guaranteed. There is still a noticeable shortage of psychological services and specialists in this area in social care facilities.

5. Regarding living conditions in mental health facilities

In 2019, inspections were carried out in three mental health institutions – the Mental Health Branch of the Public Institution ‘Respublikinė Klaipėdos ligoninė’ (hereinafter – Klaipėda Hospital), the

Psychiatry Department of the Public Institution ‘Respublikinė Panevėžio ligoninė’ (hereinafter – Panevėžys Hospital) and the Child Psychiatry Department of the Woman and Child Clinic of the Public Institution ‘Respublikinė Šiaulių ligoninė’ (the report is being prepared). The President of the Lithuanian Disability Forum, Dovilė Juodkaitė, was involved in the inspections as the expert on mental health and the rights of the disabled.

The inspections exposed that no approved workload standards for doctors and other health care specialists existed; staff complained about high emotional pressure, lack of incentives, the need to cover their additional trainings as costs of these courses were not always covered by the institution. The provisions of the internal rules defining the procedures for involuntary hospitalisation of patients do not comply with the existing legal regulation; not all patients know about their right to refuse to continue their hospitalisation and treatment at the institution and are not adequately informed about the treatment regime. The access to information on internal rules of the institutions, patients’ rights and responsibilities, possibilities to apply to the institutions’ ethics commissions are not ensured; patients lack information on the procedure for submitting written requests to the ethics commissions and their functions, oral requests of patients are not registered and the possibility of anonymous referral is not adequately guaranteed in most of the visited departments.

Furthermore, the inspections revealed that applicable procedure of physical restraint arrangements are not in line with the existing legal regulation, no attention is paid to improving staff qualifications in the light of new legal regulation, the privacy of patients, subject to physical restraint measures, is not ensured; the monitoring of the state of intended periodicity and the proper registration of the application of restraint measures is not guaranteed.

The inspections have shown that not all facilities are adapted to the needs of persons with reduced mobility; equipment in hygiene facilities is disorderly, there is a lack of cleanliness, no curtains in hospital wards, inadequate ventilation of premises, premises for meetings with visitors are not installed, thus failing to ensure the privacy of patients and people visiting them. Moreover, provisions of national legal acts prohibiting the use of tobacco products and e-cigarettes in all health care establishments and their territories are infringed, smoking of patients is tolerated both by passive and active actions of administrations and staff, and smoking addiction prevention programmes are not applied. Finally, access to the psychologist’s services, psychosocial rehabilitation and leisure activities is not adequately ensured (most departments have no separate rooms for recreation/activities, patients are rarely taken out for walks). In the light of the identified shortcomings, recommendations were issued to the responsible authorities.

6. Regarding physical abuse used by the law enforcement officers in their activities

In 2019 the Seimas Ombudsman conducted the investigation into the fundamental human rights problems arising from the application of physical abuse by the law enforcement officers in their activities. This investigation assessed the compliance with the provisions of legal acts of the Republic of Lithuania regulating the conditions and procedure for the use of physical abuse by officers and their implementation in practice with the international obligations of the State in the field of human rights. The investigation found that provisions of Lithuanian legal acts broadly reflect the principles of legality, necessity, proportionality, adequacy, early warning of the intended use of measures of

physical exposure, respect for human rights emphasised in international human rights standards regarding the use of physical violence.

However, the investigation also found that the problem of the use of excessive physical abuse in practice still exist. The information collected during the investigation revealed cases of possible extreme physical abuse used by officials in practice, where physical coercion and special measures for non-resistant persons have been used in public.

Most of the complaints about the possible use of excessive physical abuse of officials received by the Prosecutor General's Office of the Republic of Lithuania are against police and correctional officers (due to unreasonably severe physical violence, refusal to record injuries, use of physical abuse during searches, etc.). For example, one complaint revealed that police officers broke into a private room and, while arresting an unarmed and non-resisting person, forced him on the ground, beat him and used electric shock devices against him. In another filmed event, it was evident that the person in custody did not resist, was healthy, without signs of violence, but when the detainee was brought into captivity, apparent signs of violence were visible. There was also a case in practice where a person was detained during a public event and did not resist arrest. However, officers handcuffed him behind his back and put him in a police car, and after an investigation at the hospital, severe spinal injuries were reported to this detainee. Such examples cast doubt on whether officers use physical force following the strict requirements for the use of coercion provided for by law and whether, in all cases, milder means are used first.

In another very significant case, which has attracted a lot of public interest, images showcasing the detention of a group of judges and lawyers who have been taken to court to decide on their arrest were widely published in the media. This footage captured non-resistant and calm persons being handcuffed and escorted to the court by officers in a police convoy. The special police force was also present at this event. According to police officers, they used these tools to assess the potential risks and dangers that may arise from the high level of public and media interest in the detention of these persons. However, the Seimas Ombudsman concluded that the particular interest of the public and the media should not be linked with an extreme case that could pose a danger to the life, health, property, or environment of the population, which would have led to the necessity of using excessive force against arrested persons. Moreover, the public handcuffing of non-resistant persons is incompatible with the principle of presumption of innocence.

One of the most effective preventive measures to protect the person whose freedom is restricted from the excessive use of physical force against him by officials is the use of video recorders (video systems), which preventively affects the conduct of both the offender and the official himself. It is understood that in some instances where urgent action is necessary in order to avoid endangering the safety, health, and/or life of the official, the offender himself, those around them, the official must react immediately and may not be able to turn on his recorder as fast as possible. However, in practice, technical barriers still exist. For example, the technical problems of video recording in correctional institutions complicate the handling of complaints about the actions of correctional staff since computers storing film footage often fail, video camera shooting quality is poor, and videos are not appropriately archived. There are frequent cases where video or audio recordings from service cars or portable video recorders are not retained, made available, or are not available for any other reason. Moreover, data collected during the investigation revealed that officers do not always use video

recording devices to perform their tasks, so cases of physical abuse are often unrecorded. In the opinion of the Seimas Ombudsman, such practice of law enforcement officers creates preconditions for the risk of misuse of force and inhumane and degrading treatment.

The responsible authorities, therefore, were recommended by the Seimas Ombudsman that necessary measures must be taken to ensure that officials comply strictly with legal acts regulating their activities, assess and take into account the particular situation, the nature of the legal offence, the individual characteristics of the offender, the level of resistance, and the consequences of the use of a specific coercive measure in order to ensure that suspects and accused persons, who do not resist and pose no danger to officers, are not subjected to the disproportionate use of violence towards them and are not presented guilty in court or in public.

The above-mentioned information is intended to provide the Committee with a brief overview of six selected issues that the Lithuanian Ombudsman considers vital to address during Lithuania's upcoming review. The observations reported above demonstrate that, in the areas concerned, there are significant signs that fundamental human rights are violated in Lithuania, and that, in many cases, individuals are subject to torture or other cruel, inhuman or degrading treatment.

A link² to the Lithuanian Ombudsmen's reports with more detailed information on NPM and NHRI activities in Lithuania is also provided for your convenience.

Yours respectfully,

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² <https://www.lrski.lt/en/veiklos-sritys/metines-seimo-kontrolieriu-veiklos-ataskaitos/>