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EUROPEJSKA FUNDACJA PRAW CZŁOWIEKA
EUROPEAN FOUNDATION OF HUMAN RIGHTS
ЕВРОПЕЙСКИЙ ФОНД ПРАВ ЧЕЛОВЕКА

ALTERNATIVE REPORT

Prepared for the Committee on the Elimination of Racial
Discrimination

On the occasion of its review of Lithuania's ninth to tenth
periodic reports of States parties under the International
Convention on the Elimination of All Forms of Racial



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Lithuanian
Centre for
Human
Rights



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The report is submitted by two Lithuanian non-governmental organisations - Association "Lithuanian Centre for Human Rights" and The European Foundation of Human Rights. These organisations have been working together and individually on different issues relating to monitoring, human rights education, social inclusion of minorities, advocacy, etc.

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I. INTRODUCTION

Since 9 December 1998 Lithuania has been bound by the mechanism of the International Convention on the Elimination of All Forms of Racial Discrimination (hereinafter – ICERD). It is worth mentioning that Lithuania decided not to make any declarations or reservations. However, Lithuania has not yet ratified Article 14 of the Convention. Therefore, it has not recognized the Committee on the Elimination of Racial Discrimination (hereinafter – Committee) to receive and consider communications from individuals or groups of individuals within its jurisdiction.

Lithuania submitted its initial report (CERD/C/369/Add.2) under Article 9 of the CERD in 2000. It was considered by the Committee at its 1497th and 1498th meetings (CERD/C/SR.1497 and 1498), on 5 and 6 March 2002, and at its 1520th meeting (CERD/C/SR.1520)/ On 21 March 2002, the Committee adopted the concluding observations (CERD/C/60/CO/8).

Lithuania submitted its second and third periodic reports (CERD/C/461/Add.2) under Article 9 of the ICERD in 2004. It was considered by the Committee at its 1733rd and 1734th meetings (CERD/C/SR.1733 and 1734), held on 21 and 22 February 2006. At its 1753rd meeting (CERD/C/SR.1753), held on 7 March 2006, the Committee adopted the concluding observations (CERD/C/LTU/CO/3).

Lithuania's fourth and fifth periodic report submitted in 2010 covers the period from 2004 – 2010. Lithuania submitted the combined sixth, seventh and eighth periodic reports in 2014 and the combined ninth and tenth periodic reports in 2018.

The aim of this report is to provide the Committee on the Elimination of Racial Discrimination with additional information on the implementation of certain recommendations made by the Committee and to highlight the current debate on the rights of national minorities as well as the present-day level of protection in Lithuania. For a number of years EFHR has been involved with other organizations including European governmental agencies and NGOs. We have held numerous meetings with 5 representatives from various organizations¹, including OSCE contacts² in order to share information and recommendations and to collaborate in order to better tackle difficult issues related to the violation of human rights in Lithuania.

¹ <http://en.efhr.eu/2018/03/06/a-meeting-with-a-representative-from-the-framework-convention-for-the-protection-of-national-minorities-took-place/>

² <http://lt.efhr.eu/2018/06/07/esbo-atstovai-domisi-tautiniu-mazumu-situacija-lietuvoje/>

II. ABOUT ORGANISATIONS

Lithuanian Centre for Human Rights (LCHR) is a non-governmental organisation based in Vilnius. LCHR has been working in the field of human rights for two decades. Since the foundation by private persons in 1994, LCHR focused on human rights education, advocacy and research, implementing numerous projects and activities in the field. Equality and non-discrimination of people are fundamental principles that LCHR use in activities and work philosophy.

Main goals of LCHR:

- 1. To disseminate knowledge on both European Union's and international human rights protection standards, raise awareness, promote tolerance and respect for diversity in community.*
- 2. To strengthen society's capacity to fight discrimination of exclusion groups and minorities.*
- 3. To raise human rights related questions, to initiate legal research and to provide possible solutions to legislature and government.*

The European Foundation of Human Rights (EFHR) is a non-governmental organization which has been actively operating in Lithuania since 2010. It was established in response to striking increase in the number of human rights and national minority rights violations in Lithuania, observed after the country became member of the European Union

The main aims of EFHR are:

- 1) Conducting educational and research initiatives on human rights related issues;*
- 2) Protecting the interests of socially marginalized groups, promoting gender equality and equality for national minorities;*
- 3) Promoting human rights as the foundation of a proper functioning state and society;*
- 4) Strengthening community-wide respect for dignity and human rights;*
- 5) Promoting human rights protection;*
- 6) Supporting and offering guidance to citizens with a particular emphasis on free of charge legal assistance to individuals and legal entities.*

III. SUMMARY

Although Lithuania has made some progress regarding the implementation of previous recommendations of the Committee, important human rights-related issues are still present in the country. Some improvements have been noticed in certain fields, while the situation regressed or stagnated in other areas.

Thus, the European Foundation of Human Rights and the Lithuanian Centre for Human Rights both want to highlight some concerns about the current situation in Lithuania, and point the shortfalls regarding the recommendations that were previously given by the Committee in the Combined ninth and tenth periodic reports.

The NGOs noted a certain number of gaps, in particular in the following areas:

➤ *Legislation for racial discrimination*

The Lithuanian legislation doesn't include all grounds for discrimination into the definition of racial discrimination, despite the recommendations of the European Commission against Racism and Intolerance in 2016.

➤ *Law on national minorities*

There is no law about national minorities since 2010 in Lithuania, and, in spite of some drafts made by the government, the delay stays an important issue for minorities' rights in the country.

➤ *Obtaining data on ethnic and national minorities*

There is a clear lack of data concerning economic and social indicators for ethnic and national minorities, which makes it difficult to analyse and understand the situation of these minorities in the country. Unfortunately, current statistics barely respond to the initial expectations.

➤ *National human rights institution*

Following the recommendations of the Committee, a National human rights institution was created in 2017. Nevertheless, it stays complicated to monitor human rights in the country.

➤ *Funding for the Equal Opportunities Ombudsperson and the Department of National Minorities*

Even if the Committee recommended to increase funds for these two departments, the government increased the budget for the Department of National Minorities and decreased the one for the Equal Opportunities Ombudsperson. Either way, the department of National minorities suffers from strong weaknesses and struggle to perform its main functions.

➤ *Hate speech*

Hate speech remains an important issue in Lithuania, and the lack of resources and clear prioritised actions from the government do not enable the country to properly counter this phenomenon.

➤ *Hate crimes*

Lithuania made some efforts to recognise and carry out prosecution of hate crimes in the country. However, there is no specific plan of action dedicated to hate crimes, and there are often challenges during every phase of investigations, recognition is low, affecting under-reporting, assistance to victims is very limited.

➤ *Public demonstrations*

Because of existing tensions in Lithuanian society, there is a risk of conflict escalation during public demonstrations (for example, the "Patriots" march on the Independence day of Lithuania).

➤ *Roma community*

The situation of the Roma community is still concerning in Lithuania. Despite some plans of action regulated by the government, Roma people are still suffering from a strong discrimination in enjoyment of their rights to housing, education, employment, etc.

➤ *Anti-discrimination legislation*

Even though anti-discrimination legislation exists, the situation of asylum seekers or refugees stays complicated in the country. Their integration is not totally covered by legislation and policies, and they are often victims of discrimination, especially regarding employment and housing.

➤ *Refugees, asylum seekers and stateless persons*

Refugee's integration is still a big challenge in Lithuania. A majority of Lithuanian have a bad perception of them, which is a big obstacle for their integration.

➤ *Human trafficking*

The minimum international standards on the elimination of human trafficking are met by Lithuania, nevertheless there is a lack of a comprehensive strategy, effective guarantees and services for the victims, financial allocations and well-established inter-instructional and inter-sectoral cooperation.

➤ *Reparation for victims of racial discrimination*

The EU Victims' Directives are not effectively implemented by Lithuania undermining protection and needs of the victims of racial discrimination. Victims are not provided with a proper protection, support and access to justice guarantees.

IV. IMPLEMENTATION OF COMMITTEE'S RECOMMENDATIONS

PARAGRAPH 5. LEGISLATION FOR RACIAL DISCRIMINATION

The Committee recommends that the State incorporate all grounds for discrimination into the definition of racial discrimination contained in its legislation, in compliance with article 1 of the Convention.

The Law on Equal Treatment of the Republic of Lithuania and Articles 169, 170, 170(1) of the Criminal Code of the Republic of Lithuania are the main legal provisions which provide a comprehensive list of distinctive features as grounds of discrimination. Even though the list is quite extensive, no separate definition of racial discrimination is provided, it can be deriving from a general definition of discrimination. In contrast to the state report, above-mentioned legal acts are not absolutely compatible with the Convention since "colour" is not mentioned by any law. Skin colour can be, but not necessarily, a characteristic of race. Furthermore, the Convention mentions national origin, which is not exclusively mention by the Lithuanian legislation, and the ground "citizenship" covers only EU and EEA citizenship. Therefore, to fully comply with the Convention it is necessary to amend legal acts to fully comply with the provisions of the Convention.

European Commission against Racism and Intolerance in 2016 released a report where it was recommended that authorities of Lithuania would broaden the CC articles 60, 169 and 179 incorporating grounds of skin colour, citizenship and gender identity. Unfortunately, there was no public discussion on this particular matter. Moreover, no alterations in the legal law relating to the named grounds were initiated.

PARAGRAPH 7. LAW ON NATIONAL MINORITIES

The Committee recommends that the State party speed up the consideration and adoption of the draft law on national minorities.

The Law on National Minorities expired in 2010. Since then, despite new projects and criticism from many international organizations, there has been no law on national minorities in Lithuania. Even though Advisory Committee, OSCE and Ministry Committee are constantly reminding about the urge to adopt the law, no serious action has been taken so far. The topic has become a target of a political debate and the Law on National Minorities is seen more as a threat to the state than a means of protecting human rights.³

Five draft laws have been registered in the *Seimas* (Parliament of Lithuania) but, despite repetitive recommendations by CERD committee, none of them have been signed. Even though new draft law is being prepared, delayed adoption show that

³ <https://www.15min.lt/naujiena/aktualu/lietuva/siulomas-tautiniu-mazumu-istatymas-pagarba-mazumoms-ar-sumaisties-skleidimas-56-936158>

there is still not enough political will to provide minorities with rights established internationally, including United Nations Minorities Declaration.

PARAGRAPH 9. OBTAINING DATA ON ETHNIC AND NATIONAL MINORITIES

The Committee recommends that the State party make efforts to obtain available recent, reliable and comprehensive data on economic and social indicators based on nationality and ethnicity, in order to ensure better assessments of the extent of the enjoyment of economic, social and cultural rights by ethnic and national minorities and migrants and of the concrete results of the application of the State's anti-discrimination legislation and relevant plans, programmes and strategies.

Recommendations of the Committee to obtain available data on economic and social indicators based on nationality and ethnicity have been implemented poorly. Existing statistical data supplemented by the Department of Statistics (Statistics Lithuania) does not fulfil the need of recent, reliable and comprehensive data about the enjoyment of economic, social and cultural rights by ethnic and national minorities and migrants. With no reliable data it is difficult to monitor the real situation in the country, therefore additional funds and specialists in the field are needed in order to fulfil obligations.

PARAGRAPH 10. NATIONAL HUMAN RIGHTS INSTITUTION

The Committee recommends that the State party establish an independent national human rights institution with a broad mandate and provide it with adequate financial and human resources, in full compliance with the Paris Principles. The Committee encourages the State party to seek the support and advice of the Office of the United Nations High Commissioner for Human Rights in that process.

National human rights institution was established in 2017, when Seimas Ombudsmen's Office was accredited at level A in line with the Paris Principles. January 1, 2018 Amendments to the Law on Seimas Ombudsmen came into force, granting the Seimas Ombudsmen's Office the status of the National Human Rights Institution. Although, the establishment of an independent national human rights institution has been also implemented with visible gaps. The role of Seimas Ombudsmen's Office comprehends a broad scale of responsibilities, no steps were visible to broader strategical steps to cover all the functions of a National Human Rights institution, which make it difficult to properly disseminate and to monitor human rights in the country, as principles of adequate funding with broader functions is not implemented and the principle of pluralism is not covered by the Law.

PARAGRAPH 13. FUNDING FOR THE EQUAL OPPORTUNITIES OMBUDSPERSON AND THE DEPARTMENT OF NATIONAL MINORITIES

The Committee recommends that the State party provide the Equal Opportunities Ombudsperson and the Department of National Minorities with sufficient resources to enable them to fully and properly implement their mandates.

Both Department of National Minorities and the Equal Opportunities Ombudsperson are financed from the State budget, although their financial situation has differed. In 2018 the Department of National Minorities received 973 000 Euro and the Equal Opportunities Ombudsman was granted 507 000 Euro, whereas in 2019 these numbers were 1 008 000 Euro and 408 000 Euro accordingly. On one hand, an increased funding for the integration of national minorities may mean more attention to the protection of national minorities. Nevertheless, it should be kept in mind that since 2015, the financing of cultural projects of national minorities had become the prerogative of the department and not the Ministry of Culture. Also, it must be noted that despite an increased funding, weaknesses are observed in the department's activities. For example, international reports are submitted almost half a year after the deadline, the Department has not yet published the recommendations of the Advisory Committee on the Framework Convention for the Protection of National Minorities. Furthermore, the Department focuses mainly on cultural issues, even though the law states that the Department should be also involved in shaping the national minority policies, the level of critical evaluation of functioning strategies and programmes is quite low and openness to involve the public is still facing struggles.

Moreover, the problem of discrimination is particularly acute in Lithuanian society today, therefore inadequate funding for the main body ensuring equal opportunities – Ombudsperson for Equal Opportunities, reflects the attitude of the Government regarding discriminatory practices.

PARAGRAPH 15. HATE SPEECH

In the light of its general recommendations No.7 (1985) and No.15 (1993) relating to the implementation of article 4 of the Convention and No.30 (2004) on discrimination against non-citizens, and recalling its general recommendation No.35 (2013) on combating racist hate speech, the Committee reminds the State party of the importance of safeguarding the rights of groups in need of protection against racist hate speech and incitement to hatred and recommends that the State party take appropriate measures to:

- (a) Strongly condemn and distance itself from racist hate speech and discriminatory statements emanating from certain politicians and media, including those published on the Internet, and call upon politicians and media professionals to ensure that their public statements do not contribute to fuelling intolerance, stigmatization and incitement to hatred;***

- (b) Ensure that all reported cases of hate speech are registered and investigated effectively under the Criminal Code, and that the persons responsible are prosecuted, where appropriate, and, if found guilty, punished with adequate penalties;**
- (c) Continue to collect and make available statistics on the hate speech cases that have been reported, the number of cases brought to court and the outcome of these cases;**
- (d) Increase awareness-raising campaigns and other measures to counter hate speech, develop a long-term strategy to adequately combat hate speech and follow up on cases brought to the office of the inspector of journalist ethics.**

Implementation of the Article 4 of the Convention and General Recommendations No. 30 (2004) on discrimination against non-citizens and implementation of general recommendations No. 35 (2013) on combating racist hate speech, have been complicated. While hate speech and incitement to hatred are criminalized by Article 170 (2) and (3) and Article 1701 of the CC, general situation in the country has not visibly changed. Some politicians and media outlets are still using strong language in incitement of hatred against vulnerable groups of society, however, particular actions are not always subjected to the investigation. State party needs to be more vocal in condemning intolerance, stigmatization and incitement to hatred, especially when these situations involve to the politicians and media professionals.

One of the many examples when public persons used hatred and incitement to hatred publically was observed during Lithuanian parliamentary elections, which took place on 9 October, 2016. Anti-migrant, anti-refugee and to a certain degree Islamophobic discourse was used, in particular, by some populist parties.⁴

Assurance that all reported cases of hate speech are registered and investigated effectively under the CC has also been challenging. As EFHR works directly with online hate speech manifestations and submits discriminatory comments to the prosecutor's offices, it is possible to partly observe the magnitude of the problem. According to EFHR statistics, only 1 out of 10 submitted complaints achieves the desired result – a pre-trial investigation. However, these complaints rarely reach the court. It is often repeated that criminal responsibility is *ultima ratio*, and it is too strict for a single comment as a non-systematic expression of opinion.⁵ And even though criminal liability does not have to be applied in all circumstances.

The goals within awareness-raising campaigns and other measures in countering hate speech have been partly achieved. The Office of the Inspector of Journalist Ethics was appointed as Lithuania's national liaison officer.⁶ Functions of the office

⁴ <http://www.islamophobiaeurope.com/wp-content/uploads/2017/03/LITHUANIA.pdf>

⁵ <http://en.efhr.eu/2018/07/05/hate-speech-there-are-fewer-comments-but-the-view-do-not-change/>

⁶ Combined ninth and tenth periodic reports submitted by Lithuania under article 9 of the Convention, due in 2018*

incorporate such actions as removal of speech of discord from social media. Having institution responsible for decreasing hate speech in social media and news outlets serves as a positive change in the light of arising far-right and nationalistic movements around the world and also in Lithuania. However, a sole institution will not combat hate speech in the country. In order to achieve this goal, broader measures are required.

Lack of resources serves as a meaningful obstacle in monitoring of hate speech in social media and news outlets. The Office of the Inspector of Journalist Ethics states that they are not capable to resolve all incoming complaints and reports due to the fact, that at the time of the organization's report in 2016 only two persons were managing the monitoring system.⁷

While a removal of hate speech in the social networks and media outlets has been established, campaigns for increasing awareness against hate speech and crimes lacked attention. The attitude towards vulnerable groups cannot be changed solely by filtering incitement to hatred online. Public campaigns directed at discussing hate speech and hate crimes are needed, especially there is a need of distinguishing boundaries between freedom of speech and hate speech.

Various conferences and forums were organized during the time of implementation of recommendations, however, the events were mostly concentrated on educating professionals and not the society.

PARAGRAPH 17. HATE CRIMES

In the light of its general recommendation No.7, the Committee recommends that the State party strengthen its efforts to combat hate crimes effectively. It should:

- (a) Effectively investigate all reported instances of hate crime, prosecute those responsible and, in the event of a conviction, punish perpetrators with appropriate penalties; it should also ensure that the principle of ultima ratio is not applied restrictively to hate crime cases;***
- (b) Continue to provide adequate training to police officers, the judiciary and all law enforcement officers on how to address hate crime;***
- (c) Improve the systematic registration and recording of allegations of hate crime that are reported to the police and take measures to facilitate the lodging of complaints by victims of hate crime;***
- (d) Provide the Committee with statistical data on complaints, investigations, convictions and sanctions for acts categorized as hate crimes;***
- (e) Take appropriate measures to increase the confidence of vulnerable groups in the State party's institutions and mechanisms responsible for addressing racist hate crimes.***

⁷ Žurnalistų etikos inspektorius tarnyba, „2016 metų veiklos ataskaita“, http://www.lrs.lt/apps3/1/5643_2017_03_31%20ZEIT%202016%20metu%20veiklos%20ataskaita.pdf

There is currently no specific action plan in Lithuania precisely targeted at combating hate crime. Attempts were made to form certain strategies and action plans for recording and recognition of hate crimes in Lithuania, establishing a working group by the Ministry of Interior, but no clear strategy or action plan was developed and the Working group work has stopped functioning without being recalled. The institutions responsible for ensuring human rights (the Seimas Ombudsmen of the Republic of Lithuania, the Office of the Equal Opportunities Ombudsperson, the Office of the Inspector of Journalist Ethics and other institutions) foresee certain activities related to the reduction of discrimination, hate speech and crime prevention in their action plans. Nevertheless, Lithuania lacks clear measures to reduce hatred, to promote non-discrimination and to consolidate equal opportunities. There is also a lack of comprehensive research (both criminological and sociological) to assess the true scale of hate crime in Lithuania.

Collection of statistics relating to hate crime has also encountered difficulties. Formal procedure of recording hate crimes in Lithuania goes in line with generic crime form that gives the possibility to list motives of a crime. However, particular procedure does not allocate hate crimes in a distinct category, therefore, it is challenging to determine the number of cases if criminal acts are investigated merely as hooliganism, violation of person's health, etc., without recognising the hate motive.

Concerning strengthening the efforts in combating hate crime by effectively investigating all reported instances of hate crime, the outcome of this process can be seen in the level of legislation, however, laws do not always function effectively in the reality.

Officials of Police department claim that investigations which concern hate crimes usually do not start when an investigator foresees unsuccessful resolution of the case. It indicates that if officers do not observe criminal offense or believe that according to courts' jurisprudence the outcome will be negative, the investigation of the complaint or case will not be held. Having in mind particular examples it can be concluded that investigation system needs to be reformed and renewed.⁸

Besides the issue of recognition, almost every case that reaches the court is tried based on two articles – e.g. violation of public order and incitement of hatred, nevertheless not every situation might be considered as incitement of hatred, but a crime can be committed with a hate motive, that is recognised by the law, but its' applicability in court practice has not been observed.

Cases, where hate crime is not identified while there is evidence of the contrary, are observed in the practice of the courts in Lithuania. For example, Kaunas City District court delivered a judgement where two men threatened a pregnant women to close her in the car trunk and told her husband an Irish citizen of Indian descent to "go back to his country", were convicted of violation of public order, but not

⁸ Apskritojo stalo diskusija „Veiksmingas atsakas į neapykantos nusikaltimus“, 2017 m. birželio mėn. 15 d.

hatred.⁹ Judgement on the crime of “incitement to hatred” in line with “violation of public order” was delivered only by the court of a higher instance. The EFHR is waiting for another decision in the case of hate crime, where Ecuadorean immigrant was assaulted by men shouting “Lithuania for Lithuanians”. The investigation has not been started at the beginning because, according to the police, the victim has chosen not to report the crime. This was denied by the victim. After pressure from the public, an investigation moved forward and two suspects were arrested.¹⁰ In addition to incitement to hatred, they were accused of violation of public order.

The outcome of ineffective investigation and courts' practices is detected in a low rate of hate crime reports. Mistrust in official justice institutions prevents victims and civil society from reporting of hate related crimes.¹¹ Three out of four people who have been affected by violation of human rights stated, that they had not reported the incident, because they did not believe that reporting would help.¹²

To achieve better results in recording of the hate speech and hate crimes, the Committee recommended to maintain trainings for police officers, the judiciary and all law enforcement officers. According to the official data presented in the Combined ninth and tenth periodic reports submitted by Lithuania under article 9 of the Convention, the trainings in the field of hatred related crime investigation, were mostly organized for the law enforcement officials, Prosecutor's Office and judges. However, to achieve visible results bottom-up approach is needed. During the period of time from 2015 until the day of Combined ninth and tenth periodic reports submitted by Lithuania under article 9 of the Convention submission, only two trainings for police officers were held, with 24 officers participating. Having in mind that police officers are the first ones who receive complaints or allegations, it is crucial for the institution to be fully-prepared in the field of hate speech and hate crimes. It is also important to note, that trained police officers represent only 0.3% of all officers in the country. Moreover, it is not clear if any trainings were held in 2018 and none are planned for 2019.^{13 14}

Recommendations of the Committee to improve systematic registration and recording of allegations of hate crime have not been implemented yet. The

⁹ <http://en.efhr.eu/2017/05/11/a-pe-go-back-to-your-country-or-how-cases-against-racism-in-lithuania-are-dealt-with/>

¹⁰ <https://newsmavens.com/news/aha-moments/1778/suspects-arrested-in-vilnius-hate-crime>

¹¹ Europos komisija kovai su rasizmu ir netolerancija, „ECRI ataskaita apie Lietuvą. Penktasis stebėsenos etapas“, 2016 m. kovo 18 d.,

<http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Lithuania/LTU-CbC-V-2016-020-LIT.pdf>

¹² Žmogaus teisių stebėjimo institutas, Reprezentatyvi Lietuvos gyventojų apklausa 2016 m., Kaip visuomenė vertina žmogaus teisių padėtį Lietuvoje“, https://hrmi.lt/wp-content/uploads/2016/12/Apklausa-2016_santrauka.pdf .

¹³ 29 Lietuvos policijos duomenimis, 2016 m. žmoniškųjų policijos resursų skaičius siekė 10 651 policijos pareigūnų. Lietuvos policija, „2016m. policijos veiklos apžvalga“, 2017 m., www.policija.lt/get.php?f.28375

¹⁴ „Atsakas į neapykantos nusikaltimus: situacijos Lietuvoje apžvalga“, Žmogaus teisių stebėjimo institutas 2017, <https://hrmi.lt/wp-content/uploads/2017/12/Atsakas-%C4%AF-neapykantos-nusikaltimus-2017-1.pdf>

possibility of running the projects aimed at development of effective measures and framing the practices through trainings for police officers, prosecutors and judges particularly in the field of racism, xenophobia and other forms of intolerance¹⁵, is diminished by the lack of a clear mechanism on documenting the hate crimes.

It is challenging to collect statistical data on complaints, investigations, convictions and sanctions for acts recognized as hate crimes. As mentioned before, with no mechanism on data collection of investigations which encompasses xenophobia, race and discrimination, the recommendations of the Committee have been implemented poorly. Moreover, often crimes related to hate towards vulnerable groups of society are being recorded as hooliganism or violation of public order. These practices also serve as obstacles to recording hate crime.

While State party acknowledges the need for improving the expertise on hate crime recording and gathering of official and reliable statistical data, however, an action plan launched by the State lacks clear indicators on the results expected and their measurement.¹⁶

There is no special instruction or policy document that establishes rules for the hate crime data collection process. As it is not clear how to measure whether a motive has been recognised. Only official statistics on crimes recorded as "Incitement against any National, Racial, Ethnic, Religious or Other Group of Persons", most of the time – the hate speech cases, are published on the Ministry of the Interior's website.¹⁷

State party has broadened the concept of victim together with rights conferring to the victim during the criminal proceedings. Additionally, a victim has received the right to be informed on the course of investigation which relates to him or her.¹⁸

Significant improvement has also been achieved in conducting interviews during the investigation in the cases related to discrimination on the ground of sex. The possibility of participations of an accompanying person for the victim and a person of same sex for conducting interviews has been established. While these improvements fulfil recommendations of the Committee, there is still a room for development for addressing hate crimes.

Namely, the victim is still left vulnerable in terms of legal assistance. The ability to acquire first level of legal assistance is ensured for all citizens of Lithuania and European Union, as well as individuals legally living in Lithuania and EU. Nevertheless, secondary legal assistance is provided only for persons, which annual income does

¹⁵ Combined ninth and tenth periodic reports submitted by Lithuania under article 9 of the Convention, due in 2018*

¹⁶ "Atsakas į neapykantos nusikaltimus: situacijos Lietuvoje apžvalga", Žmogaus teisių stebėjimo institutas 2017, <https://hrmi.lt/wp-content/uploads/2017/12/Atsakas-%C4%AF-neapykantos-nusikaltimus-2017-1.pdf>

¹⁷ Hate crime recording and data collection practice across the EU, 2018, https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-hate-crime-recording_en.pdf

¹⁸ Combined ninth and tenth periodic reports submitted by Lithuania under article 9 of the Convention, due in 2018*

not exceed an established level. These obstacles often prevent victim from getting legal support and assistance during the investigation.¹⁹

PARAGRAPH 19. PUBLIC DEMONSTRATIONS

In the light of its general recommendation No. 7, the Committee recommends that appropriate and effective measures be taken by the authorities to ensure that public demonstrations do not degenerate into racist, xenophobic and anti-Semitic activities and propaganda by persons or groups. The Committee also recommends that the State party apply its criminal legislation and, as appropriate, carry out investigations and prosecute the individuals or groups responsible, and consider dissolving such organizations in accordance with Law No. XI-330 of July 2009 and article 4 of the Convention.

Obligation of the State party to ensure that public demonstrations do not grow into activities where the rights of vulnerable groups are violated with offensive slogans or actions has not been fully implemented. While citizens of Lithuania have a right to peacefully assemble and express their views on any matter, usually analogous demonstrations turn into events that violate human rights. For instance, every year neo-Nazi marches take place on 11th of March, Independence Day of Lithuania, organized by so called “patriots”. During these events, slogan “Lithuania for Lithuanians” is often heard together with visible signs of swastikas and other Nazi symbols.^{20 21}

Due to public attempts the visibility of these marches has fallen. Nevertheless, earlier attempts to carry out investigations and prosecute individuals or groups responsible for organisation of such events usually ended with termination of pre-trial investigation with absence of proof.

While there are legal grounds for sanctioning of demonstrations which include violations of norms of nobility, displaying hate speech, symbols of Nazi Germany, the USSR or the Lithuanian SSR specified in the CC, as already mentioned, real sanctions are not usually imposed because of the lack of evidence.

PARAGRAPH 21. ROMA COMMUNITY

Recalling its general recommendation No.27 (2000) on discrimination against Roma, the Committee recommends that the State party:

¹⁹ Valstybės garantuojama teisinė pagalba, <http://www.teisinepagalba.lt/antrine/tm/skaiciuokle/>

²⁰ <http://defendinghistory.com/swastikas-are-back-for-far-rights-independence-day-march-in-central-vilnius-on-march-11th/98260>

²¹ <http://defendinghistory.com/nationalist-march-in-central-vilnius-on-independence-day-ended-up-in-the-usual-neo-nazi-spirit/93494>

- (a) Continue its efforts to firmly combat racial discrimination against Roma and address the challenges that Roma continue to face in the areas of employment, education and housing;**
- (b) In particular, bearing in mind the Committee's general recommendation No.32 (2009) on the meaning and scope of special measures in the International Convention on the Elimination of All Forms of Racial Discrimination and in the context of the new action plan for Roma integration for 2015-2020, reinforce the special measures to reduce the illiteracy rate and the school dropout rate and to improve the attendance and language skills of Roma children;**
- (c) Find durable solutions to the housing issues of Roma, including by providing them with social housing in the context of the action plan for greater social inclusion for 2014-2020, and pay particular attention to the housing situation of Roma in the Kirtimai settlement and provide them with alternative solutions in consultation with Roma communities;**
- (d) Allocate adequate funding for all programmes, strategies and other policies relating to the integration of Roma and for the evaluation of the impact of those measures.**

The situation of Roma in Lithuania is particularly alarming. They suffer from discrimination regarding different subjects such as housing, education, employment etc. Surveys of public attitudes revealed that in the last 5 years (2013-2017) the highest social distance remains towards Roma ethnic group: more than 60% of respondents expressed their unwillingness to live in the neighbourhood or to rent an accommodation to Roma persons. Since 2015, Muslims and refugees became identified as unwanted and socially distanced groups among Lithuanian population.²²

Plans and strategies related to non-discrimination of Roma people in Lithuanian society have been a challenging and almost invisible area in the social matters of the country. Situation of Roma people remains one of the most abandoned spheres with little improvement. Nevertheless, practices designed to achieve higher indicators in the social and economic welfare of Roma people remain poor.

Racial discrimination against Roma people is a wide-ranging issue in the country, however the measures to advance the situation have been managed insufficiently. Politicians and some media outlets are afraid of speaking up and taking actions in the mediation process in the light of potential outburst of negative reactions. With low level of mediation in the field of Roma people situation in the country, the conditions for particular minority has not significantly changed for many years.

²² ENAR Shadow Report, Discrimination in Employment Update Lithuania, 2013 – 2017

While population of Roma people in Lithuania is relatively small, negative views towards the community are widespread. Representatives of the Roma community are usually presented in the context of criminal activities and offences.²³

Another major issue is housing for Roma people. Continuous discrimination faced from the real estate market, prevents Roma people from opportunities to purchase or to rent an apartment. Moreover, Roma people are evaluated as an ethnic minority with which the Lithuanian population would not want to live in the neighbourhood the most.²⁴ Negative attitudes towards Roma people serve as a fundamental reason why Roma people still face a challenge in acquiring housing.

The survey of Lithuanian Roma found that the average number of Roma residents per household is twice the national average: one Roma household consists of 4.8 members on average, while the national average is 2.3 members per household.²⁵

In the beginning of 2015, media reported that the Vilnius City Municipality has started to draft a project aimed at relocating Roma to the newly built village. Such initiatives, whereby Roma communities are relocated from one "ghetto" to another, do not contribute to the social integration of the community, do not deal with problems related to their social exclusion, discrimination and poverty; on the contrary – they further contribute to their stigmatization and exclusion from society".

Alternative measures on finding an alternative housing for Roma people, especially people living in Kirtimai settlement have not been fully implemented. Although Vilnius City Municipality has approved the Programme for the integration of Roma people living in the particular area. According to the data presented in Vilnius info site, the number of Roma people still living in Kirtimai settlement in 2018 estimates from 260 to 280 people.²⁶ As per last data, some families have remained homeless after their houses were torn apart or burned and started using the premises (classrooms, lobby) of Roma Community Centre as temporary shelter.

Moreover, the Roma Integration Action Plan for 2014-2020 does not have any planned measures to deal with the Roma housing issue. Public institutions have met in 2015 to initiate the discussion and as a rapid reaction to new cases of demolition of Roma houses in Kirtimai area, but no further decisions were taken until 2018.

²³ Frėjutė-Rakauskienė, M. (2015). Pranešimas Etninių grupių, imigrantų ir LGBT žmonių reprezentacija Lietuvos interneto dienraščiuose. In Lietuvos žmogaus teisių centras. Nuomonės raiška Lietuvos internetinėje erdvėje: žmogaus teisės, etikinė teisminė praktika, http://manoteises.lt/wp-content/uploads/2015/05/LZTC_LEIDINYSfin1.pdf

²⁴ Lithuania's Society Attitudes, <http://www.romuplatforma.lt/en/lithuanias-society-attitudes/>

²⁵ <http://www.romuplatforma.lt/en/implementation-of-roma-right-to-housing/>

²⁶ Vilniaus romų tabore ženkliai mažėja gyventojų skaičius,

<https://www.vilniuje.info/news/1963629/vilniaus-romu-tabore-zenkliai-mazeja-gyventoju-skaicius>

Kirtimai settlement is the sole segregated neighbourhood of Roma people in Baltic countries, which contributes to the exclusion of the community from the society.²⁷

An important measure helping, was a project called “Local Roma platforms – the road toward communication with municipalities”. The Department of National Minorities has already initiated the implementation of this project: working groups of municipal employees and representatives of the Roma community are being prepared and will aim to identify the best ways to integrate Roma on a municipal level, however this has not been implemented in a wider range yet as state budgets were too short.

Economic situation of Roma people is another issue relating to the community. According to a research initiated by Office of Equal Opportunities Ombudsperson, in 2015 only 11.6% of people identifying themselves as Roma in Lithuania were employed.

Inclusion of Roma people into society have also faced obstacles by fluctuating funding needed for implementation of needed measures.

The average life expectancy of Roma remains lower than the average life expectancy of Lithuanians. Even though most Roma have compulsory health insurance, they often avoid going to the doctor because they are afraid of hospitals and treatment, or simply have no time when looking after their household, while poverty and poor living conditions determine the spread of chronic diseases in Roma communities. In the future, it is important to ensure the implementation of health literacy education for the Roma community and the improvement of medical knowledge of the needs of Roma patients.

The goal of reducing the illiteracy rate and the school dropout rate as well as improving attendance and language skills of Roma children has been achieved rather in average numbers. Nevertheless, positive improvements such as the fact that the number of illiterate persons and persons who failed to attain primary education decreased from 26% to 10%, the general trend of Roma people education has remained low.

PARAGRAPH 25. ANTI-DISCRIMINATION LEGISLATION

The Committee recommends that the State party closely monitor the effective application of the anti-discrimination legislation and consider taking special measures to foster the integration of national and ethnic minorities into society, in particular in the labour market, paying particular attention to the situation of minority and migrant women, taking into account the Committee’s general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination. The Committee also recommends that the State party collect and

²⁷ Rekomendacijos dėl veiksmy kovoiant su antisemitizmu ir romafobija Lietuvoje, 2018 m., <https://www.lzb.lt/wp-content/uploads/2018/03/Rekomendacijos-2018.pdf>

provide information on the level of representation of minorities in public affairs, including in the police, with a view to improving such representation. The Committee further recommends that the State party provide information on the implementation of the Constitutional Court's ruling CERD/C/LTU/CO/6-8 6 on the use of names in languages other than Lithuanian in identity cards for persons belonging to minorities.

Generally in European countries, unemployment is more widespread among ethnic minorities compared to the majority population.²⁸ Job discrimination towards ethnic minorities is also present in Lithuania, and additionally, minorities, such as refugees for example, receive very low salary when they succeed to get a job.²⁹ Migrants from third countries come to Lithuania only with a valid working permit and an employment contract. Therefore, they have restricted mobility in the labour market – they cannot change work place, employers can fire employees at any stage of the contract, workers become vulnerable and can potentially be abused. If an employer terminates the contract, an employee has to leave the country in 3 days. There were cases reported when a migrant worker did not receive his/her salary, then they were fired and had to leave the country.

The structural problem is that such people do not turn to institutions for redress, even though mechanisms have been developed. Work migrants have none or little information.

Refugees and asylum seekers find themselves in more precarious working conditions, as during the integration process they are not well acquainted with their rights in employment. None or little information is given to refugees regarding their rights and possibilities.

The financial support provided to refugees during the integration period is not on the same level as that available to nationals in need of social assistance and therefore the mainstream social welfare system cannot adequately cater for refugees' needs and rights in a non-discriminatory manner.

Permanent monitoring system of introduced programmes and support mechanisms should be developed by the State (not project-based support) to ensure the assistance for the long-term unemployed persons, as almost a half of the unemployed minorities faced long-term unemployment. However, recommendations on the provision of supported employment and individual support to increase the employability of members of ethnic communities have not been implemented due to budget shortage.

Discriminatory job offers remain an issue, also requirements that are unnecessary for job position (e.g. citizenship, language proficiency, etc.) remain. Considering structural discrimination, immigration policies can be considered as discriminatory *per se*. The state decides whom to let into the country and, by extension, the

²⁸ <https://www.enar-eu.org/No-equal-opportunities-in-jobs-for-ethnic-and-religious-minorities-in-Europe>

²⁹ <https://www.refworld.org/pdfid/58a486e34.pdf>

European Union. The state does this for the purposes of regulating the mobility of people, but immigration policy in itself discriminates against third country nationals. Due to EU and national legislation, migrants with higher education qualifications have fewer difficulties in employment.

PARAGRAPH 27. REFUGEES, ASYLUM SEEKERS AND STATELESS PERSONS

The Committee recommends that the State party consider further facilitating the naturalization process of stateless persons who have been living in its territory and raise their awareness of the new law on citizenship, while monitoring closely the application of the provisions of that law under which a person can be deprived of citizenship and left stateless. The Committee also recommends that the State party take adequate measures to improve the reception conditions and the integration of refugees and asylum seekers.

The integration of refugees in Lithuania has not been properly implemented. Asylum seekers who have been granted asylum in Lithuania experience the feeling of being inferior, useless and unwanted outsiders – human beings whose human rights are limited, who have been imprisoned or bound both psychologically and geographically.

The very first challenge that many refugees face is their reception and detention upon arrival. Asylum seekers experience hard living conditions and complicated relations with officers, as soon as they are accommodated in the Foreigners' Registration Centre.³⁰

Lithuanian residents tend to perceive immigrants as having a negative impact on society and the state. Many are prone to thinking that immigrants subsist on taxpayer money and may cause social unrest.³¹ These stereotypical attitudes are not based on any practical evidence – according to the special Eurobarometer of October 2017, 69% of Lithuanian respondents indicated that they have had no personal interactions with any group of immigrants from third countries in their neighbourhood.³²

As most refugees are relocated live in the Rukla refugee reception centre, chances to interact with local people are limited. The government provides the refugees with the above-mentioned essential means to integrate into Lithuanian society, however socially they are very often on their own. Civil societal organisations and volunteers such as “together refugees & youth”, based in Vilnius, organising different events and activities with local youth workers in order to integrate into society faster and develop friendships. Still, the refugees face several challenges while trying to

³⁰ <http://www.lrski.lt/en/275-the-seimas-ombudsman-has-paid-attention-to-the-detention-conditions-of-refugees-in-lithuania.html>

³¹ <https://medium.com/are-you-syrious/ays-special-refugees-do-not-find-home-in-lithuania-31ecb7185ee8>

³² <https://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/ResultDoc/.../82537>

integrate into Lithuanian society. When looking for work or housing, many refugees feel alienated, as many people are not open to the idea of including refugees in the professional sector or free housing market, making it almost impossible to live independently in Lithuania.

15. Asylum seekers who gain subsidiary protection have to apply for a new residence permit yearly. Temporary residence permit cannot be extended. This might be seen as an example of structural discrimination.

PARAGRAPH 29. HUMAN TRAFFICKING

Taking into account its general recommendations No. 30 and No. 25, the Committee recommends that the State party:

- (a) take effective measures to prevent human trafficking, in particular of women and girls, including effective enforcement of its anti-trafficking legislation and enhancement of international cooperation to combat trafficking;***
- (b) investigate effectively all cases of human trafficking, prosecute, as appropriate, those responsible and provide redress and support to victims;***
- (c) continue to conduct awareness-raising campaigns on the prevention of trafficking that target the most vulnerable segments of its population; and***
- (d) provide the police, prosecutors, judges and migration and border officers with specialized training on the Convention and relevant international human rights instruments.***

The Government of Lithuania fully meets the minimum standards for the elimination of trafficking.³³ In 2016, the Criminal Code was amended and the definition of human trafficking was expanded including fraud, recruiting, physical violence, threatening, as well as the dependence and vulnerability of victims. Specific human trafficking instances were named: slavery, prostitution, pornography, forced marriages, forced labour and services, forced begging and forced criminal activities.³⁴

However, rights of victims are often violated during criminal investigations. Since current legislation require for the victims to personally attend court hearings when giving evidence, they are forced to face the perpetrator. Even though technologies enabling victims to give evidence remotely are allowed by law, they are rarely used in practice.³⁵

³³ Trafficking in Persons Report, 2017 <https://www.state.gov/documents/organization/271343.pdf>

³⁴ Kriščiūnaitė A., Žibas K., Human trafficking and other forms of exploitation, <https://hrmi.lt/wp-content/uploads/2018/07/2016-2017-Human-Rights-in-Lithuania.pdf>

³⁵ *Ibid.*

Specialist point out the main problems: lack of a strategy, lack of funding, and ineffective inter-institutional and inter-sectoral coordination.³⁶

Support services are provided, however access and affordability are often problematic.

PARAGRAPH 31. REPARATION FOR VICTIMS OF RACIAL DISCRIMINATION

The Committee urges the State party to adopt the draft laws implementing the European Union victims directives as a means to provide reparation for victims of racial discrimination.

Though the EU Directive provides that victims and their family members have a right to access victim support services, in Lithuania, no such general victim support services exist. Currently only support centers dealing with a specific type of crime victims function in Lithuania (e.g., special support centers for domestic violence victims, support center for human trafficking victims). Therefore, contrary to the testimonies of the law enforcement officers that victims might also be referred to various centers, which provide information to crime victims, none of the victim interviewed confirmed that they were indeed informed about such possibility.

Similarly, no comprehensive system of victims' and their family members' protection from secondary and repeat victimization, from intimidation and from retaliation, including against the risk of emotional or psychological harm exists in Lithuania. Seven out of nine victims stated to have suffered repeated incidents of hate crime after they submitted the first complaint.

Inadequate protection of the victims' rights is an important issue. It includes lack of physical protection for the victim as well as non-existence of support centers for hate crime victims; no procedures on individual assessment of the victim; short-age of interpreters and translators; authorities' disregard of their obligations to provide necessary information to the victims; to avoid contact between victim and the offender; to allow victim to be accompanied by a person of a victim's choice.

³⁶ Žibas K. (2016). Exploitative Sham Marriages and Trafficking in Human Beings in Lithuania

V. CONCLUSIONS AND RECOMMENDATIONS

Overall, this Report concludes that even though certain important steps have been introduced by Lithuania to fulfil its human rights' obligations under the Convention, there are gaps and shortcomings in the legislative and policy frameworks which have to be urgently addressed. In order to enhance protection of vulnerable groups in Lithuanian society and to combat discrimination, the following recommendations are suggested by the drafters of this Report:

- to bring the text of the Criminal Code in line with the text of the Convention by amending its articles 60, 169 and 179 with the full list of conventional grounds, including skin colour, citizenship, as well as a ground not within the range of this Convention – gender identity;
- to adopt the Law on National Minorities;
- to ensure adequate monitoring through provision of updated, segregated and comprehensive statistical data;
- to increase the effectiveness of the Seimas Ombudsmen's Office by narrowing down the scope of responsibilities and prioritising certain functions of the National Human Rights Institution, consider splitting certain functions among more institutions – ensure the principles of adequate funding and pluralism, established by Paris principles are met;
- to provide adequate financial allocations for the functioning of the Department of National Minorities and the Equal Opportunities Ombudsperson;
- to strengthen national awareness-raising campaigns on hate crimes and hate speech;
- to ensure recognition and effective investigation of hate crimes;
- to ensure cooperation of state institutions, law enforcement institutions and civil society organisations in combating hate crime and spread of hatred;
- to ensure adequate monitoring of hate speech and collection of the relevant updated, segregated and comprehensive statistical data;
- to simplify access to legal aid and other assistance for individuals alleging to be the victims of hate crimes;
- to formulate policies towards integration and inclusion of Roma and enhancing social cohesion within Lithuanian communities;
- to provide working migrants with effective remedies in the cases of their rights' violations and to increase their awareness about the existing mechanisms;
- to strengthen financial support schemes for refugees during the integration period;

- to improve migrants' conditions in the Foreigners' Registration Centre;
- to provide an adequate permanent monitoring system in the field of employment with a particular focus on the members of ethnic communities;
- to eliminate discriminatory requirements from the job offers;
- to develop inclusive and socially cohesive policies for the integration of refugees;
- to ensure upholding of the rights of the victims of human trafficking during all stages of investigation and trial;
- to develop a comprehensive strategy towards combatting human trafficking and to ensure sufficient financial allocation;
- to strengthen inter-institutional and inter-sectoral cooperation and coordination in the field of human trafficking;
- to increase access of the victims of racial discrimination to remedies by strengthening their physical protection and by providing support to the centres for hate crime victims;
- to develop procedures on individual assessment of the victim of racial discrimination and to enhance other guarantees, including access to accurate and timely translation, information and others.

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