



**LIETUVOS RESPUBLIKOS NUOLATINĖ ATSTOVYBĖ PRIE
JUNGTINIŲ TAUTŲ BIURO IR KITŲ TARPTAUTINIŲ
ORGANIZACIJŲ ŽENEVOJE**

**MISSION PERMANENTE DE LA LITUANIE AUPRÈS DE
L'OFFICE DES NATIONS UNIES ET DES AUTRES
ORGANISATIONS INTERNATIONALES À GENÈVE**

No. SN-131/2013

The Permanent Mission of the Republic of Lithuania to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and has the honour to submit additional information in accordance with Paragraph 17 of the concluding observations of the Human Rights Committee concerning the third periodic report of the Republic of Lithuania under the International Covenant on Civil and Political Rights (CCPR/C/LTU/CO/3). The Permanent Mission has the honour to request to transmit this information to the Human Rights Committee.

The Permanent Mission of the Republic of Lithuania to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 31 July, 2013



**Office of the United Nations
High Commissioner for Human Rights
Geneva**

**ADDITIONAL INFORMATION PROVIDED IN ACCORDANCE WITH PARAGRAPH 17
OF THE CONCLUDING OBSERVATIONS OF THE UNITED NATIONS HUMAN
RIGHTS COMMITTEE CONCERNING THE THIRD PERIODIC REPORT OF THE
REPUBLIC OF LITHUANIA UNDER THE INTERNATIONAL COVENANT ON CIVIL
AND POLITICAL RIGHTS (CCPR/C/LTU/CO/3)**

During its 2896th (CCPR/C/SR.2896) and 2897th (CCPR/C/SR.2897) meetings held on 11 and 12 July 2012, the Human Rights Committee considered the Third Periodic Report of the Republic of Lithuania (CCPR/C/LTU/3).

During its 2916th meeting (CCPR/C/SR.2916) held on 24 July 2012, the Human Rights Committee approved the final comments (CCPR/C/LTU/CO/3). In item 17 of the final comments, the Committee asked Lithuania to inform about the implementation of recommendations presented in items 8, 9 and 12 within one year as of the approval of the comments. The requested information is provided below.

“8. The Committee is concerned that certain legal instruments such as the Law on the Protection of Minors against the Detrimental Effect of Public Information (art. 7) may be applied in a manner unduly restrictive of the freedom of expression guaranteed under the Covenant and may have the effect of justifying discrimination against lesbian, gay, bisexual and transgender (LGBT) individuals. The Committee is furthermore concerned at various legislative proposals, including amendments to the Code of Administrative Offences, the Constitution, and the Civil Code which, were they to be adopted, would impact negatively on the enjoyment of fundamental rights by LGBT individuals. The Committee is also concerned at the increasing negative attitudes against, and stigmatization of, such persons in society, which has manifested itself in instances of violence and discrimination, and at reports of reluctance on the part of police officers and prosecutors to pursue allegations of human rights violations against persons on the basis of their sexual orientation or gender identity (arts. 2, 19 and 26).

The State party should take all necessary measures to ensure that its legislation is not interpreted and applied in a discriminatory manner against persons on the basis of their sexual orientation or gender identity. The State party should implement broad awareness-raising campaigns, as well as trainings for law enforcement officials, to counter negative sentiments against LGBT individuals. It should consider adopting a targeted national action plan on the issue. The Committee, finally, recalls the obligation of the State party to guarantee all human rights of such individuals, including the right to freedom of expression and the right to freedom of assembly.”

Following the accession of the Republic of Lithuania to the European Union in 2004, Lithuania has implemented the main EU legislation in the area of non-discrimination. The principal law transposing the provisions of EU law regarding non-discrimination of individuals and equal treatment is the Law on Equal Treatment of the Republic of Lithuania, which was adopted already in 2003.

The provisions prohibiting direct and indirect discrimination on the grounds of sexual orientation, harassment and instructions to discriminate against individuals are embedded in the Labour Code, the Criminal Code, the Law on Consumer Protection, the Law on Courts, etc.

On 7 June 2013, Lithuania signed the Council of Europe Convention on preventing and combating violence against women and domestic violence.

Lithuania has also been conducting a number of measures for the implementation of non-discrimination policy, such as the Inter-institutional Action Plan for Promotion of Non-discrimination 2012-2014 and projects of the PROGRESS programme together with non-governmental organisations.

The purpose of the Inter-institutional Action Plan for Promotion of Non-discrimination 2012-2014 is to ensure the implementation of educational measures for the promotion of non-discrimination and equal opportunities, increase legal awareness, reciprocal understanding and tolerance *on the grounds of gender, race, nationality, language, origin, social status, faith, beliefs or convictions, age, sexual orientation, disability, ethnicity or religion*, and inform the society about manifestations of discrimination in Lithuania and its negative impact on the possibilities of certain groups of society to actively participate in the activities of society under equal conditions.

The Inter-institutional Action Plan for Promotion of Non-discrimination 2012-2014 provides for the following measures:

- Provisions on non-discrimination and equal opportunities' education have been included into the programmes of training and obligatory upgrading of qualifications of judges;
- To prepare and implement measures on information about equal opportunities and non-discrimination (publications, posters, advertising commercials, television and radio programmes, training, etc.);
- To organise events promoting tolerance of and familiarity with other cultures;
- To organise meetings with communities of Lithuania's municipalities on matters of equal opportunities;
- To organise seminars, training of non-formal education and discussions for public servants, representatives of trade unions and other target groups on matters of equal opportunities and non-discrimination;
- To organise continuous training of prosecutors, interns and civil servants of prosecution offices on how to recognise and correctly evaluate manifestations of racial, national, religious and other related discrimination, hatred or xenophobia, in all cases taking into account the aspect of gender, and effectively apply laws of the Republic of Lithuania and legislation of the European Union prohibiting and regulating these phenomena, also taking into consideration the International Convention on the Elimination of All Forms of Racial Discrimination and the Declaration adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (the Durban Declaration and a Programme of Action);
- To organise seminars on non-discrimination on the grounds of disability for persons employed in the field of public information;
- In accordance with the procedure established in legislation, to organise a tender for partial financing of projects of non-state organisations defending human rights, etc.

Regarding sex change

It is noteworthy that the right to change one's sex is provided for in Article 2.27, paragraph 1, of the Civil Code, and paragraph 2 of the same Article provides that the terms and procedure of sex change are established by laws. The Government of the Republic of Lithuania, on 20 July 2012, submitted a package of draft laws related to the improvement of the system of registration of acts of civil status which includes a draft amendment to the Civil Code of the Republic of Lithuania whereby, *inter alia*, there is a proposal to repeal Article 2.27, paragraph 2, of the Civil Code.

It should be noted that the law already provides for the main terms for the implementation of the right to change one's sex. In accordance with Article 2.27, paragraph 1, of the Civil Code, a person has the right to change his/her sex, in a medical manner, if he/she is unmarried and of full age in cases when it is feasible from the medical point of view. The said terms should not be interpreted as meaning that all legal relations of change of sex must be regulated by law since the Government and other legislative entities, according to their competence, may also regulate these relations by issuing secondary legislation, which is based on law and does not compete with it.

It should be borne in mind that the draft laws submitted by the Government of the Republic of Lithuania, related to the improvement of the system of registration of acts of civil status, are aimed at simplifying the procedure which regulates the sex-change-conditioned necessity to change the entries in the acts of civil status: the submitted draft law on registration of acts of civil status of the Republic of Lithuania provides that a civil registry office registers sex change upon receipt of a person's application and a certificate on sex change issued by a health care institution in accordance with the procedure established by the Government or an institution authorised by it.

The procedure established by the Government or an institution authorised by it should regulate only procedural rules for issue of applications regarding sex change, and medical institutions would make a decision on the fact of sex change based only on medical criteria. Thus a possibility would be provided for persons, who have changed their sex, to have entries in the documents changed pursuant to an administrative, and not a judicial, procedure. Sex change would be registered by amending the entry on the person's birth (by compiling an entry amending the entry on the person's birth). A person's sex is one of the data of the birth entry, and amending this datum and compiling an entry amending the birth entry, the Central Database of the Population Register's Data automatically generates a new personal number in conformity with a person's sex.

Having registered the sex change, in the manner proposed in the draft laws, a person will be able to apply for a replacement of the passport and the identity card. It is noteworthy that both the Passport Law of the Republic of Lithuania and the Law on Identity Cards of the Republic of Lithuania provide that these documents are replaced if a citizen changes his/her first name, surname, sex, date of birth, place of birth or personal number.

Regarding the Law on the Protection of Minors against the Detrimental Effect of Public Information

In 2009, members of the Seimas (the Parliament) initiated and adopted a Law on the Protection of Minors against the Detrimental Effect of Public Information of the Republic of Lithuania whereby it was provided that public information was considered having a detrimental effect if it promoted homosexual, bisexual or polygamous relations. This provision of the law should have become effective as of 1 March 2010. At the end of 2009, the said legislative provision was amended, and the amendment entered into force as of 1 March 2010, i.e. before this provision became effective.

"9. The Committee, while noting the information contained in the State party's parliamentary inquiry into alleged incidents of rendition and secret detention of terrorism suspects, and further noting that the pre-trial investigation was terminated by the Office of the Prosecutor-General, remains concerned that not all information and evidence has been collected and assessed in the course of the investigations.

The State party should ensure an effective investigation into allegations of its complicity in human rights violations as a result of counter-terrorism measures. The Committee urges the State party to continue the investigations on the matter and to bring perpetrators to justice."

The Office of the Prosecutor-General of the Republic of Lithuania carried out a pre-trial investigation in criminal case No 01-2-00016-10 regarding abuse in accordance with Article 228, paragraph 1, of the Criminal Code of the Republic of Lithuania (hereinafter referred to as the Criminal Code). The subject-matter of the pre-trial investigation was conditioned and defined by the circumstances stated in the Conclusion of a parliamentary investigation conducted by the Committee on National Security and Defence of the Seimas (the Parliament) of the Republic of Lithuania regarding possible transportation and imprisonment on the territory of the Republic of Lithuania of persons detained by the Central Intelligence Agency of the United States of America (hereinafter – the CIA of the USA) – (1) Arrival and departure of the CIA of the USA aircraft to/from the Republic of Lithuania, gaining access by USA officials to the aircraft and their inspection of the cargo and passengers on these aircraft; (2) Implementation of Projects No 1 and No 2; (3) Notification by the management of the State Security Department of the Republic of Lithuania of the top officials of the state about the objectives and content of the Projects No 1 and No 2 under implementation. During the pre-trial investigation, persons related to the subject-matter of the investigation and having the data which are important for solving the case were questioned, documents and information important for the pre-trial investigation were received, and the premises which had been identified in the Conclusion as “Project No 1” and “Project No 2” were surveyed. The totality of the data received during the pre-trial investigation is sufficient in order to formulate legally significant conclusions and adopt a procedural decision, therefore, by the resolution of the prosecutor of 14 January 2011, pre-trial investigation No 01-2-00016-10 was terminated, because no act having the attributes of a crime or a criminal offence had been committed.

Currently there have not been received any well-grounded or valuable information or data which could constitute a basis for the renewal of the pre-trial investigation. If such data were received or if there were grounds for that, the renewal of the pre-trial investigation could be considered in accordance with the procedure established by the Criminal Procedure Code. It should be noted that the 14 January 2011 resolution of the prosecutor to terminate the pre-trial investigation has been revised and verified, according to the procedure established by the Criminal Procedure Code of the Republic of Lithuania, by a more senior prosecutor who has stated that the resolution is lawful and well-grounded; since there were no grounds for the renewal of the pre-trial investigation, a decision regarding the renewal thereof has not been taken. It is also noteworthy that every time any related information is received, this information is evaluated and a decision is made regarding the necessity and procedural possibility to renew the pre-trial investigation.

As it has been mentioned, the pre-trial investigation was terminated, because no act having the attributes of a crime or a criminal offence had been committed. When terminating the investigation, it was stated that no data had been received as to unlawful transportation of any persons to or from Lithuania by aircraft linked to the CIA of the USA. On the contrary, persons questioned during the investigation either dogmatically denied such circumstances, or indicated that they had no data thereon. It has also been stated that the premises inspected during the investigation were not intended for keeping persons detained by the CIA of the USA and that no persons were illegally kept in those premises. Under such circumstances it is, in principle, not possible to take any actions with regard to concrete persons in terms of criminal prosecution, because there are no such persons.

“12. The Committee is concerned about the length of and routine use of administrative detention and detention on remand at the pre-trial phase of criminal proceedings. While noting the Law on Probation, which recently came into force, the Committee also regrets the insufficient use of alternatives to imprisonment in the State party (art. 9).”

The Committee reiterates its earlier recommendation (CCPR/CO/80/LTU, para 13) that the State party eliminate the institution of detention for administrative offences from its system of law enforcement. The State party should also take appropriate measures to implement alternatives to imprisonment as sentence, including probation, mediation, community service and suspended sentences.

Regarding administrative detention

The Government of the Republic of Lithuania, on 19 September 2011, submitted to the Seimas (the Parliament) a draft Code of Administrative Offences of the Republic of Lithuania whose purpose is to regulate administrative responsibility of natural persons in the Republic of Lithuania by separating it from criminal liability and ensuring essential attributes of administrative responsibility, namely, a speedy and simple process, priority to non-repressive measures, and adequacy of measures with regard to the offence of law committed. In the draft Code, there is a proposal not to apply any longer, as an administrative penalty, administrative detention and removal from office (work). Elimination of administrative detention, as a short-term deprivation of freedom, from administrative penalties is required in order to ensure the consistency of criminal and administrative liability and the conformity of the Code with the provisions of the Convention.

Regarding the Law on Probation of the Republic of Lithuania

On 1 July 2012, the Law on Probation of the Republic of Lithuania became effective. In this Law, probation is defined as conditional alternative to a sentence of deprivation of freedom (suspension of the implementation of a sentence and release on parole from correction institutions) during which a person under probation is supervised. The purpose of probation is to ensure effective re-socialisation of persons under probation and reduce the relapse of their criminal acts. This Law provides conditions to promote more frequent application of alternative sanctions (instead of a sentence of deprivation of freedom), use more actively resources of society, such as associations and volunteers, in conducting re-socialisation of convicts, and work with convicts on an individual basis, in every case evaluating the degree of their risk to commit an offence repeatedly and applying individually-selected measures of supervision (social help, behaviour-correction programmes, etc.). Court judgements, whereby probation is imposed, are implemented and supervision of persons under probation is conducted by probation services. These services cooperate with state and municipal institutions and bodies.

Together with the Law on Probation, the Seimas (the Parliament) also adopted appropriate amendments of the Criminal Code of the Republic of Lithuania, the Criminal Procedure Code of the Republic of Lithuania, and the Penal Code of the Republic of Lithuania. More lenient conditions for the suspension of the implementation of a sentence have been established. A sentence of deprivation of freedom may be suspended with regard to a person who has been convicted for one or several deliberate minor offences or medium-gravity offences for no longer than four years (before the amendment, it was three years), or no longer than six years for crimes committed due to negligence. A sentence of deprivation of freedom may be suspended with regard to minors convicted for one or several negligent crimes or convicted for one or several deliberate crimes for no more than five years (before the amendment, it was four years). The implementation of a sentence may be suspended if the court decides that there are enough grounds to believe that the purpose of the sentence will be achieved without a real service of the sentence.

The conditions of and the procedure for release on parole from correction institutions have been amended substantially. A part of the imposed sentence which should be actually served by a convict before he/she could be released on parole, in a newly adopted Law, is linked to the gravity of the

committed criminal act and the term of the imposed sentence. Convicts who committed minor criminal acts may be released on parole from a correction institution sooner. Convicts who are serving a sentence of deprivation of freedom in correction institutions, which have carried out measures foreseen in an individual social rehabilitation plan and whose risk of criminal behaviour, behaviour while serving the sentence, and other significant circumstances give grounds to believe that they will observe the law and will not commit an offence, may be released on parole after they have actually served the following minimum part of the imposed sentence of deprivation of freedom:

- One third of the imposed sentence of deprivation of freedom, but no less than 4 months – those convicted for crimes committed due to negligence, whose imposed sentence does not exceed six years; other convicts whose imposed sentence does not exceed three years of deprivation of freedom, as well as minors;
- Half of the imposed sentence of deprivation of freedom – those convicted for crimes committed due to negligence, whose imposed sentence exceeds six years; other convicts whose imposed sentence exceeds three years of deprivation of freedom, but does not exceed ten years of deprivation of freedom;
- Two thirds of the imposed sentence of deprivation of freedom – those convicted whose imposed sentence exceeds ten years of deprivation of freedom, but does not exceed fifteen years of deprivation of freedom;
- Three fourths of the imposed sentence of deprivation of freedom – those convicted whose imposed sentence exceeds fifteen years of deprivation of freedom, but does not exceed twenty-five years of deprivation of freedom.

Convicts, which agree to intense supervision to be applied with regard to them, may be released on parole from correction institutions six months before their possible release on parole.

A resolution on a convict's release on parole from a correction institution is passed by the Release on Parole Commission, set up by the director of the Prison Department and operating in each correction institution. The resolution is approved by a court's judgement. No less than a half of the members of Release on Parole Commissions are representatives of society. Previously, release on parole from correction institutions was implemented by courts upon recommendations of the administrations of correction institutions.

Even though a new procedure for release on parole from correction institutions became effective only on 1 July 2012, positive results with regard to the application of release on parole have already been observed: during 2nd half of 2012, 689 convicts were released on parole, i.e. 35 per cent more than during 1st half of 2012 and 27 per cent more than during 2nd half of 2011. In total, in 2012, 1198 convicts were released on parole, i.e. 7 per cent more than in 2011. At the same time, it is noteworthy that following the introduction of the system for risk assessment of convicts' criminal behaviour and the new procedure for release on parole, the correction institutions witness an increase in the number of convicts who wish to study or pursue other useful activities.