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REFERENCE: jmn/mm/fg/follow-up/CAT/Lithuania

21 April 2006

Mr. Ambassador,

In my capacity as Rapporteur for Follow-up on Conclusions and Recommendations of the United Nations Committee against Torture, I refer to the examination of the initial report of Lithuania (CAT/C/37/Add.5) at its 584th and 587th meetings, held on 17 and 19 November 2003 (CAT/C/SR.584 and 587).

At the end of this session, the Committee's Conclusions and Recommendations were transmitted to your Permanent Mission (CAT/C/CR/31/5). You may recall that, in par. 8 of the Committee's Conclusions and Recommendations, the Committee requested Lithuania to provide, within one year, information on its response to the Committee's recommendations contained in paragraphs 6 (d), (e), and (f) (see attached addendum).

Noting that the information sought by the Committee has been provided on 7 December 2004, I am grateful for your Government responses on the matter submitted (CAT/C/CR/31/5/RESP.1). Nevertheless, from the analysis of this information, I would appreciate clarification as to the following concerns and recommendations, where sufficient information has not been provided with regard to the implementation of the Convention in Lithuania:

The Committee notes the regulations indicated in par. 4 (a-d) of Lithuania's response regarding procedures for routine medical examinations of detainees. Additional information would be appreciated regarding how the public prosecutor is monitored to ensure that medical exams are permitted, in practice, at the request of the prisoner and not only upon order of an official.

The Committee welcomes the intent and action of the Prosecutor General in amending Order No. 96, "Prosecutorial Control in Ensuring Protection of Detained and Arrested Persons Against Torture and Inhuman or Degrading Treatment or Punishment (8 June 2001), so as to require prosecutors who receive information about torture to initiate an investigation. However, the order still requires a prosecutor to respond and initiate a case, whereas the intent of the Committee's recommendation was to ensure the greater protective measure of enabling prisoners themselves to initiate appeals that must be reviewed.

The Committee notes that in response to our recommendation 6 (e), Lithuania has indicated that the Seimas Ombudsman examines complaints of citizens about the abuse of authority by state officials, except judges. Lithuania notes in par. 8 of its response that previous limitations on the Ombudsman's powers of investigation in favour of the prosecutor's inquiry had proven an obstacle to investigate complaints against officials alleged to have committed human rights violations. With amendments to the Law on the Seimas Ombudsman made on 4 November 2004, the Ombudsman has extended his competence to be able to investigate complaints against officials alleged to have violated human rights. The Committee would appreciate receiving any information about the types and outcomes of investigations made with the Ombudsman's new enhanced powers.

As noted in the Committee's recommendations, based on the best practices of many states complying with the Convention, a fully independent body outside of state institutions must be established to be prompt, credible, and effective in addressing complaints, especially given an existing system whereby the prisoner is

compelled to address appeals to the body already responsible both for prosecution of his case as well as oversight of detention conditions.

The Committee appreciates the provision of information about the "hot line" for confidential investigations of complaints made to the Ministry of Defence General Inspection. The Committee would be grateful for further information about any official investigation of reports of brutality against conscripts and to learn if any officials responsible for such alleged abuses were found responsible, and if so, what administrative or judicial measure was taken. .

The procedures currently indicated by Lithuania in par. 12 of your response indicate that complaints about unlawful use of force can only be made within the chain of command, and within the military system itself. While persons alleging abuses may file suit in a court of general jurisdiction, Lithuania notes that those availing themselves to the "hot line" must not be anonymous and must be registered; and that complaints against military investigators must in turn be submitted to the prosecutor who has oversight of the investigation, or the judge, i.e. thereby remaining within the system against which the complaint is filed. The Committee notes that steps must be made to enable independent examination of such conscripts' complaints.

Upon receipt of this information, the committee will be able to assess what further action is required. The Committee looks forward to pursuing the constructive dialogue it has started with the authorities of Lithuania on the implementation of the Convention, and, in this context, to receiving clarification to our enquiry as well as follow-up during our discussion of Latvia's second periodic report.

Accept, Mr. Ambassador, the assurances of my highest consideration.



FG
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COMMITTEE AGAINST TORTURE

Thirty-first session

10-21 November 2003

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Conclusions and recommendations of the Committee against Torture
(Extracts for follow-up)

LITHUANIA

(...)

D. Recommendations

6. The Committee recommends that the State party:

(...)

(d) Ensure in practice that the public prosecutor's actions are monitored to ensure that any persons who allege ill-treatment or torture or who require medical examination are permitted by the public prosecutor to receive such examinations at their request and not only at the order of an official;

(e) Take urgent and effective steps to establish a fully independent complaints mechanism, ensure prompt, impartial and full investigations into the many allegations of torture reported to the authorities and the prosecutions, and punish, as appropriate, the alleged perpetrators;

(f) Ensure that officials in the army promptly investigate reports of brutality against conscripts that may amount to ill-treatment or torture, and investigate other reports of abuse fairly and impartially, and hold those responsible to account;

(...)

8. The Committee requests that the State party provide, within one year, information on its response to the Committee's recommendations contained in paragraphs 6 (d), (e) and (f) above;

(...)
