



ŽMOGAUS TEISIŲ
STEBĖJIMO INSTITUTAS

HUMAN RIGHTS
MONITORING INSTITUTE

ALTERNATIVE REPORT TO THE UN COMMITTEE AGAINST TORTURE

Submitted by the Human Rights Monitoring Institute

On the occasion of the review of Lithuania's 3rd periodic report
under the UN Convention against Torture and Other Cruel,
Inhuman or Degrading Treatment or Punishment

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ABOUT HUMAN RIGHTS MONITORING INSTITUTE

Human Rights Monitoring Institute (HRMI) was founded by the OSF-Lithuania in 2003 as a human rights watchdog organisation. Since its establishment HRMI has been advocating for full compliance of national laws, policies and practices with international human rights obligations, and working to encourage people to exercise their rights. Over the years, HRMI activities evolved and expanded, leading to the development of new strategies and approaches that would not only promote legal changes but would also ensure that rights are real and effective in practice.

In its work HRMI uses a combination of tools: research, reporting, litigation, public advocacy, lobbying, participating in legislative process, providing expert advice, consultations and trainings, building networks and coalitions, and campaigning. As a result, HRMI plays a unique role in the local human rights movement as the only NGO in Lithuania employing a holistic approach to advance rights protection. It is also the only NGO covering such wide range of thematic human rights areas. In 2010-2013, HRMI activities cut across the following themes: criminal justice, freedom of information, right to private and family life, national security and counterterrorism, women's rights, rights of persons with disabilities, rights of the child, LGBTI rights, rights of migrants and asylum seekers, countering hate speech and discrimination.

To achieve its objectives, HRMI actively cooperates with foreign and international NGOs such as [Amnesty International](#), [Human Rights Watch](#), [Interights](#), [Reprieve](#), [Redress](#), [Irish Council for Civil Liberties](#), [Fair Trials International](#), [Hungarian Helsinki Committee](#), [Open Society Justice Initiative](#) and others. HRMI is a member of [EU Fundamental Rights Platform](#), [Eurochild](#), [UNITED for Intercultural Action](#), [Civic Solidarity Platform](#), and [JUSTICIA](#). Since 2005, HRMI representatives have been sharing expertise with lawyers, NGOs and other actors in the countries of the FSU region: Serbia Moldova, Georgia, Armenia, Russia, Tajikistan, Ukraine, Belarus and others.

Since its establishment 10 years ago, HRMI has litigated and won 18 strategic cases on behalf of vulnerable and marginalized individuals and communities; submitted 14 shadow reports to international human rights bodies; [issued 55 public statements](#); [released 7 Human Rights Overviews](#) - comprehensive reports on human rights challenges and developments in Lithuania; [conducted research and released 21 publication](#); submitted 10 proposals for draft laws; [held 16 major awareness raising campaigns](#); organized 129 public and expert events – meetings, discussions, and conferences; [joined 6 national and international NGO networks](#); [held 4 intensive human rights summer courses](#) and delivered trainings on ECHR, right to fair trial, anti-discrimination and other rights-related themes to various institutions, officials, lawyers, NGO representatives in Lithuania and in the countries of FSU region.

In 2012, HRMI was appointed a [national operator of the EEA Grants NGO Programme in Lithuania](#). It is the first time that an NGO was entrusted with the management of funds designated to strengthening civil society in Lithuania.

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INTRODUCTION

Human Rights Monitoring Institute welcomes an opportunity to provide the Committee with the information regarding the implementation of the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT) in Lithuania on the occasion of the review of Lithuania's 3rd periodic report.

HRMI notes that significant developments have taken place since the review of Lithuania's 2nd periodic report, the most notable being the adoption of the Law against Domestic Violence which for the first time recognized domestic violence as a violation of human rights and a crime subject to prosecution. Nevertheless, acknowledging the progress in the area of combating domestic violence, HRMI notes with concern the delays in long-overdue reforms or setbacks in the implementation of certain Lithuania's obligation under the CAT.

To highlight the specific concerns and provide the recommendations for improvement, in this report HRMI focuses on the following issues also referred to in the Committee's List of Issues, namely in paragraphs 4, 6-9, 11, 14, 15, 19-22 and 30:

- a. Severe overuse of pre-trial detention;
- b. Concerns related to the Lithuanian parole system;
- c. Administrative detention of minors;
- d. Insufficient efforts to combat human trafficking;
- e. Investigation of Lithuania's complicity in CIA Program;
- f. Rights of refugees and asylum-seekers and the conditions in the Foreigners' Registration Centre;
- g. Overcrowding of prison facilities;
- h. Domestic violence and remaining legal and policy loopholes;
- i. Inadequate victim, including child victims, protection and support system.

The information contained in this report is based on a variety of sources, including reports by and consultations with the national governmental institutions and non-governmental organizations, research and reports by intergovernmental organisations, bodies and special procedures, consultations with lawyers, complaints received by the HRMI, and on-site visits, including the 4 April 2014 visit by 2 members of HRMI staff to the Foreigners' Registration Center.

1. ARTICLE 2

1.1. Issues raised under paragraph 4 of the List of issues

1.1.1. Pre-trial detention

1. Pre-trial detention is the most restrictive measure that can be employed in the course of criminal proceedings, and, under the Lithuanian Code of Criminal Procedure (CCP), it can only be used as measure of last resort. However, it remains severely overused by Lithuanian courts in comparison to its closest alternatives – house arrest and bail. Over the period of last five years (2009-2013) pre-trial detention was ordered more than ten times as much as these alternatives taken together: pre-trial detention was ordered 1822 times per year on average, while house arrest and bail were ordered 44 and 125 times per year, respectively.¹
2. The situation is worsened due to the extremely high success rate of requests for pre-trial detention. Available statistical data indicates that there is around a 95 per cent chance that pre-trial detention will be ordered if the prosecution requests it.² The chances for a successful appeal on the other hand are relatively low, averaging at around 8 per cent.³
3. Another concerning aspect of the use of pre-trial detention in Lithuania is that it is used to coerce suspects into making confessions and giving evidence. Such abuse of pre-trial detention is often pointed out by Lithuanian criminal defence lawyers.⁴ Existence of such practice was also confirmed by prosecutors and judges in study conducted by HRMI.⁵ This indicates a conscious and systematic abuse of pre-trial detention which should be considered a gross violation of the right to liberty.

1.1.2. Release on parole

4. Paragraphs 38-40 of the Lithuania's 3rd Periodic Report describe the recently completed reform of the Lithuania parole release system. Despite the notable efforts to introduce the changes into the system, the number of persons released on parole, in relation to the number of all released prisoners, has been in steady decline since 2010: from 48.5% being released on parole in 2010 to 36.7% in the period of second half of 2012 to first half of 2013.⁶
5. In addition, persons with life sentences are excluded from the Lithuanian parole system, i.e. under Article 158 of the Lithuanian Criminal Punishment Enforcement Code, a person sentenced to life imprisonment is expressly barred from being released on parole. This is in clear contradiction with the European Court of Human Rights holding in *Vinter and others v. UK* that a situation where the domestic law does not provide any mechanism or possibility for review of a whole life sentence is incompatible with Article 3 of the European Convention on Human Rights.⁷ A case against Lithuania in the European Court of Human Rights regarding absence of parole possibility for life sentences is pending.⁸

¹ Statistical data provided by the Ministry of Interior of the Republic of Lithuania. Available at http://www.ird.lt/infusions/report_manager/report_manager.php (accessed 24 March 2014)

² 2010-2013 data, provided by the National Courts' Administration under a freedom of information request.

³ *Ibid.*

⁴ <http://www.fairtrials.org/publications/communique-on-excessive-pre-trial-detention-in-lithuania/> (accessed 24 March 2014)

⁵ http://www.hrmi.lt/uploaded/Documents/Pre-trial%20detention%20-%20Practitioners%20attitudes_EN_Final_1.pdf (accessed 24 March 2014)

⁶ Calculated using the data provided in the Prison Department under the Ministry of Justice annual and biannual reports. Available at <http://www.kalejimudepartamentas.lt/lt/kalejimu-departamentas/veikla/ataskaitos/metines.html> (accessed 24 March 2014).

⁷ ECtHR, *Vinter and others v. the United Kingdom*, Applications Nos. 66069/09, 130/10 and 3896/10; 9 July 2013

⁸ ECtHR, *Matiošaitis v. Lithuania*, Application N. 22662/1, and 7 other applications.

<http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-139980>

Recommendations:

- Provide systematic trainings to the law enforcement professionals, including police officers, prosecutors and judges, on the international legal standards and best practices regarding lawful limitations to the right to liberty at the pre-trial stage and on the alternatives to pre-trial detention;
- Establish a dedicated mechanism guaranteeing a review of a life sentence and enabling the authorities to consider whether any changes in the life prisoner are so significant, and such progress towards rehabilitation has been made in the course of the sentence, as to mean that continued detention can no longer be justified on legitimate penological grounds.

1.1.3. Administrative detention of minors

6. Lithuania has 6 administrative detention centres for children that are called “socialisation centres” and are subordinate to the Ministry of Education and Science.⁹ The children held there mostly fall into three broad categories:
 - juveniles dubbed ‘delinquents’ or ‘out of control’ – youth with behavioural problems ranging from a track record of administrative offences to refusing to abide by the rules of a foster home or their parents’ governance;
 - children in conflict with law – juveniles under the minimum age of criminal responsibility, who committed acts that would otherwise be held crimes;
 - minors involved in prostitution (prostitution is administrative offence in Lithuania) and under-age victims of human trafficking.
7. The centres accommodate children with variety of specific and individual needs, but these needs remain unaddressed because the centres provide only formal education without proper treatment and rehabilitation. Even though the names of these institutions denote their educational or socialization goals, these are none the less closed institutions operating under strict regimes, and placement in them amounts to *de facto* detention.¹⁰
8. Administrative detention of children in large closed institutions is mainly employed due to: a) heavy reliance on institutionalisation as a way to solve family problems; b) poorly developed children and family services; and c) unwillingness to use and invest in alternative measures, specialised support services and treatment. In the whole country, there is not a single crisis centre for minors – children and teenagers – who are in need of urgent support and are at risk of being placed in administrative detention.¹¹
9. Whilst in detention, children do not always receive even psychological support they need.¹² Violence amongst children and staff violence and abuse is also reported – in 2013, 8 teachers from Vėliučioniai socialisation centre were facing trial on charges of violence and exploitation of children, unlawful deprivation of liberty and other crimes.¹³
10. It is reported that administration of the centres uses the so called “relaxation rooms” to lock up children for violation of rules or disobedience.¹⁴ “Relaxation room” used in one of the centres was described as a “room with no windows, with a mattress on the floor, and with double doors with iron bars.”¹⁵ The reasons for placement or the period of placement in such room that is actually

⁹ Public audit report on the effectiveness of children socialization centres in Lithuania, 2013, summary available in English at www.vkontrole.lt/failas.aspx?id=3073

¹⁰ ECHR A. and Others v. Bulgaria, Application No. 51776/08, 29 November 2011

¹¹ Information gather during round-table discussion in Kaunas, organised by Family Relations Institute, 25 February 2014

¹² Ibid.

¹³ D. Sinkevičius „Vėliučioniai Centre has become a prison for children: 8 teachers are on trial”, *delfi.lt*, 26 August 2013, <http://www.delfi.lt/news/daily/crime/veliucioniu-centras-vaikams-buvo-virtes-kalejimu-teisiami-8-pedagogai.d?id=62159947>

¹⁴ Information received by the HRMI from a staff member of one of the socialisation centres, December 2013

¹⁵ Ibid.

used a solitary confinement cell are not recorded and documented.¹⁶ Staff uses older children to control behaviour of the smaller ones,¹⁷ which indicates prevalence of an institutional culture usually found in prisons and correctional facilities.

11. Children in administrative detention are left in a certain legal twilight. Their detention is not officially considered a punishment, and the centres are not part of criminal justice system, hence the usual safeguards associated with criminal justice are unavailable to them. Administrative detention of children for welfare purposes leads to situations where children are placed in environment of systemic violations of their rights with no realistic means of redress available to them.

Recommendations:

- Establish an independent body responsible for regular oversight of the “socialisation centres” with authority to issue binding decisions;
- Set up efficient and accessible complaints, reporting and response mechanism that would ensure prompt and effective investigations of complaints regarding violence or other violations of child rights;
- Urgently abolish practices used in the centres that violate the rights of children such as placement in solitary confinement in the so called „relaxation room“;
- Develop and invest in prevention of detention of children – accessible services to children and families;
- Set up crisis intervention centres and small group homes for minors who would otherwise be placed in administrative detention in large institutions, whilst providing them with necessary care, treatment, development and rehabilitation;
- Close down large administrative detention institutions for minors.

1.2. Issues raised under paragraph 6 of the List of issues

1.2.1. Human trafficking

12. Paragraph 54 of the Lithuania’s 3rd Periodic Report describes the recent amendments to the Lithuanian Criminal Code expanding the material scope of the human trafficking offence. Though these amendments is a positive change in the legislation, aimed at facilitating the investigation and prosecution of human trafficking crimes, human trafficking nevertheless remains an issue of big concern in Lithuania. The practice of investigation of human trafficking offences fails to take into account the peculiarities of the crime, i.e. human trafficking is based on psychological, as opposed to physical coercion, for example, the use of intimidation, drugs or trickery, which lures victims in through misleading offers of easy and profitable positions abroad. Furthermore, the scale of human trafficking keeps increasing in Lithuania and the victims trafficked for prostitution purposes are getting younger.
13. According to the official data, in the period of 2011-2014, 38 crimes of human trafficking (Article 147), 2 crimes of exploitation for forced labour or services (Article 147(1)), 0 cases of use of forced labour or services (Article 147(2)) and 17 crimes of purchase and sale of a child (Article 157) have been registered.¹⁸ The numbers are relatively low, and they do not reflect the situation on the ground. The latency of the crime could be partly explained by the reluctance of the victims to report to the law enforcement authorities due to both, fear of revenge and distrust in the law enforcement and courts.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Statistical data provided by the Ministry of Interior of the Republic of Lithuania. Available at http://www.ird.lt/infusions/report_manager/report_manager.php?metai=2014&menuo=3&idAta=1&rt=1&oldYear=2014&id=198&idStat=10®ionas=0&id3=1#Atas-1G (accessed 10 April 2014)

14. According to *Caritas Lithuania*, pre-trial investigation officers fail to treat victims in a sensitive manner, investigations are often conducted unprofessionally – victims are not provided support, and sometimes are even blamed for the crime. As a consequence, victims of human trafficking refuse to cooperate with the law-enforcement authorities, which results in pre-trial investigations being terminated. For example, in 2011, 11 pre-trial investigations were terminated due to the “unreliability of testimony of the victim”, which was based on the following reasoning: “later on victims refused to testify, changed their testimonies, did not provide data supporting the testimonies, provided different interpretations of the same facts, did not arrive to pre-trial investigation officer or to the court”.¹⁹
15. Another issue of concern is the courts’ ability to understand the specifics of the crime and the status of victims. In November 2013, for example, in a case of human trafficking of three minor victims (the victims were 15 and 14 years of age at the time of the commitment of the offence), the perpetrators were charged and sentenced under Article 307 (gaining profit from another person’s prostitution) rather than Article 157 (purchase and sale of a child). Furthermore, they received as mild sentences of 150 hours of community service. When the judge was asked to comment on her decision, she referred to the short period of time that the crime lasted (20 days). Furthermore, the judge referred to the victims’ appearance making degrading comments and implying that the victims were themselves to blame.²⁰
16. Human trafficking cases, especially where trafficking for the purposes of prostitution, often appear in the media along with stigmatisation of victims. Perpetrators, benefitting from human trafficking, are depicted as “helping the prostitutes to earn a living”,²¹ while crime victims – females involved in prostitution – are portrayed as having only themselves to blame.
17. Certain legal loopholes obstruct effective investigation into and prevention of human trafficking in Lithuania. Lithuanian Criminal Code includes provisions stipulating criminal liability for making profit from another person’s prostitution (Article 307) and involvement in prostitution (Article 308). The latter two crimes are not considered human trafficking crimes therefore milder punishments apply for those. Furthermore, Lithuanian law enforcement authorities and courts tend to invoke these two provisions even in clear cases of human trafficking. For example, people who had threatened females involved in prostitution with physical violence and asked them for payment for “providing security” were charged with extortion instead of human trafficking;²² a couple that has been exploiting a young female from Vilnius for the purpose a sex worker was charged with profiting from prostitution;²³ in 2011, an organized group of six people that had for a considerable period of time profited from a group of females, involved in prostitution, were accused only of profiting from prostitution and involving other person in prostitution.²⁴
18. The official statistics confirm that these two articles of Criminal Code are more often invoked in practice, i.e. in the period 2011-2014, 132 crimes of profiting from another person’s prostitution

¹⁹ Ministry of Interior, *The report on the implementation of 2009-2012 Prevention and Control of Human Trafficking Programme in 2011*, at 3

²⁰ D. Sinkevičius „Judge shows exceptional mercy: why did the minors working as prostitutes start crying?“, *delfi.lt*, 19 November 2013, <http://www.delfi.lt/news/daily/crime/isskirtinis-teisejos-gailestis-kodel-apsiverke-prostitutemis-dirbusios-nepilnametes.d?id=63323324>

²¹ D. Sinkevičius “The pimps trial: police cannot find prostitutes“, *delfi.lt*, 28 November 2011, <http://www.delfi.lt/archive/article.php?id=52261443>

²² “Port city pimps will be taken to trial (video)“, *lrytas.lt*, 21 December 2011, http://www.lrytas.lt/-13244667291324218620-bus-teisiami-prostitutu%C4%8Di%C5%B3-tarpusavyje-nepasidalin%C4%99-uostamies%C4%8Dio-s%C4%85vadautojai-video.htm?utm_source=rss&utm_medium=rss&utm_campaign=rss

²³ D. Sinkevičius “Prostitute-trafficking couple: isn’t a media coverage also a punishment?“, *delfi.lt*, 5 March 2012, <http://www.delfi.lt/archive/article.php?id=56323047>

²⁴ “Vilnius residents who earned almost a million from prostitution business will face trial in October“, *15min.lt*, 1 July 2011, <http://www.15min.lt/naujiena/aktualu/nusikaltimaiirnelaimes/beveik-milijona-is-prostitucijos-suszere-vilnieciai-pries-teisma-stos-spali-59-158554>

(Article 307) and 30 crimes of involvement in prostitution (Article 308) have been registered.²⁵ Although the Ministry of Interior declared combating trafficking in human beings as the priority, in 2011-2012 no adequate funding was designated for this purpose. Instead of 822 000 Lt that were intended, a four times smaller sum of 175 000 Lt was ultimately earmarked for implementation of *2009-2012 Human trafficking prevention and control program* in 2011.²⁶ Since 2012, the Ministry of Interior had not adopted any *Human trafficking prevention and control program*.

Recommendations:

- In consultation with the NGO sector, issue recommendations/guidelines for prosecution (Prosecutor General's Office), police (Police department under the Ministry of Interior), judiciary (National Courts Administration, Ministry of Justice) on handling human trafficking cases;
- Organise and conduct training, including sensitivity training, for law enforcement and judiciary on handling human trafficking cases and on the special needs of victims in the proceedings;
- Remove Articles 307 and 308 from the Criminal Code. For an effective fight against human trafficking every case where a third person is profiting from another person's prostitution should be qualified as human trafficking;
- Raise public awareness on the risks of an easy and profitable work abroad, targeted at the most vulnerable victims, i.e. young females coming from the families at social risk, or inmates of large social care institutions;
- Ensure adequate and continuous state funding for non-governmental organisations working to support trafficked persons;
- Establish and provide adequate funding for the specialised integrated support services to human trafficking victims;
- Ensure accessibility of legal aid to trafficked victims throughout the proceedings;
- Adopt a new national *Human trafficking prevention and control program* and ensure adequate funding for it.

2. ARTICLE 3

2.1. Issues raised under paragraphs 7 and 9 of the List of issues

2.1.1. Counter-terrorism

19. In January 2011, the Office of the Prosecutor General of the Republic of Lithuania discontinued pre-trial investigation into Lithuania's participation in the United States of America (USA) Central Intelligence Agency's (CIA) Extraordinary Rendition and Secret Detention Program (Program). During the implementation of the Program, secret CIA detention centers were operating in the countries of Asia, Europe and America, where individuals suspected of terrorism were being detained and interrogated.²⁷ Interrogations involved torture as well as cruel, inhuman and degrading treatment.²⁸ Currently there are 136 persons identified as victims of CIA Program.²⁹ It is

²⁵ Statistical data provided by the Ministry of Interior of the Republic of Lithuania. Available at http://www.ird.lt/infusions/report_manager/report_manager.php?metai=2014&menuo=3&idAta=1&rt=1&oldYear=2014&id=198&idStat=10®ionas=0&id3=1#Atas-1G (accessed 10 April 2014)

²⁶ Ministry of Interior Report for 2011 on Implementation of 2009-2012 Human trafficking prevention and control program, at 5. Available at

http://www.vrm.lt/fileadmin/Padaliniu_failai/Viesojo_saugumo_dep/Prekyba_zmonemis/VRM_ataskaita_LRV_uz_2011.pdf

²⁷ Office of the Inspector General, Central Intelligence Agency, CIA OIG Special Review of Counterterrorism Detention and Interrogation Activities (September 2001 – October 2003) (2003-7123-IG), 7 May 2004),

<http://graphics8.nytimes.com/packages/pdf/politics/20090825-DETAIN/2004CIAIG.pdf>; also see „Human Rights in Lithuania 2009-2010: Overview“, at 12-14, https://www.hrmi.lt/uploaded/PDF%20dokai/Apzvalgos/Apzvalga_2009-2010_su%20virseliu_FINAL.pdf

²⁸ United Nations General Assembly, Human Rights Council, „Joint Study on Global Practices in Relation to Secret Detention in the Context of Countering Terrorism“ A/HRC/13/42, 19 February 2010,

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A-HRC-13-42.pdf>; 19 May 2011, European Committee for the

alleged that during the implementation of the Program at least 54 countries throughout the world, including Lithuania, collaborated with CIA by helping to detain and interrogate individuals accused of terrorism, allowing the operation of secret detention sites, usage of national airspace or airports and by performing other subsidiary actions.³⁰

20. Suspicions of Lithuania's participation in CIA Program appeared in the media in 2009. A parliamentary inquiry carried out the same year revealed that all the essential conditions for the operation of secret CIA detention centers have been created – State Security Department of Lithuania had received CIA's request to equip facilities suitable for holding detainees, and CIA contracted flights had been allowed to land in Lithuanian airports without any border and customs inspection.³¹ Pre-trial investigation into the State Security Department officials' abuse of office, which has been opened in 2010, was discontinued in 2011 without any charges and findings whether individuals detained by the CIA were held in Lithuania.
21. In September 2011, two international human rights non-governmental organizations Reprieve and Amnesty International published data on CIA flights, which showed how individuals secretly detained by the CIA could have been carried from Lithuania to Morocco.³² The Office of the Prosecutor General of Lithuania evaluated this data as insignificant and refused to re-open pre-trial investigation.³³
22. In July 2011, one of the CIA rendition victims Abu Zubaydah submitted a petition against Lithuania before the European Court of Human Rights seeking recognition from the Court that Lithuania violated of Article 3 of European Convention on Human Rights (ECHR) by failing to effectively investigate the allegations of torture, ill-treatment and secret detention amounting to enforced disappearances.³⁴
23. Delegation comprised of members of the European Parliament Committee for Civil Liberties, Justice and Home Affairs (LIBE) together with Special Rapporteur Helene Flautre visited Lithuania in April, 2012, and issued a report on investigations into CIA activities in EU Member States and their findings.³⁵ The delegation visited State Security Department's training base in Antaviliai where one of the secret detention sites might have been operating.
24. In a report approved by European Parliament resolution in September 2012, the Office of the Prosecutor General of Lithuania was urged to continue pre-trial investigation in relation to the new information that had appeared. The resolution referred to EuroControl's (European

Prevention of Torture and Inhuman or Degrading Treatment or Punishment, „Report to the Lithuanian Government on the visit to Lithuania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 14 to 18 June 2010“, CPT/Inf (2011) 17, <http://www.cpt.coe.int/documents/ltu/2011-17-inf-eng.pdf>

²⁹ Open Society Justice Initiative, „Globalising torture. CIA Secret detention and extraordinary rendition“, 2013, <http://www.opensocietyfoundations.org/sites/default/files/globalizing-torture-20120205.pdf>

³⁰ Ibid.

³¹ 19 January 2010 Resolution of Parliament of the Republic of Lithuania No. XI-659 „Findings of the Parliamentary Investigation by the Seimas Committee on National Security and defense Concerning the Alleged Transportation and confinement of persons detained by the Central Intelligence Agency of the United States of American in the territory of the Republic of Lithuania“, http://www3.lrs.lt/pls/inter/w5_show?p_r=6143&p_d=100241&p_k=2

³² Amnesty International, *Unlock the truth in Lithuania* (2011),

<http://www.amnesty.org/en/library/asset/EUR53/002/2011/en/dd6dc600-25ea-4299-8aec-1d3d16639d4c/eur530022011en.pdf>

³³ „The Office of the Prosecutor General will not renew the investigation on CIA prisons“, *delfi.lt*, 21 October 2011

<http://www.delfi.lt/news/daily/lithuania/generaline-prokuratura-neatnaujins-tyrimo-del-czv-kalejimu.d?id=50948485>

³⁴ ECtHR, *Zayn al-Abidin Muhammad Husayn (ABU ZUBAYDAH) v. Lithuania*, Application no. 46454/11,

<http://hudoc.ECHR.coe.int/sites/eng/pages/search.aspx?i=001-115816>

³⁵ 12 September 2012, European Parliament Resolution „On alleged transportation and illegal detention of prisoners in European countries by the CIA“, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fTEXT%2bTA%2bP7-TA-2012-0309%2b0%2bDOC%2bXML%2bV0%2f%2fEN&language=EN>

Organisation for the Safety of Air Navigation) data on flights contracted by CIA on which detained individuals could have been transported from Lithuania to Afghanistan.³⁶

25. In June 2013, Human Rights Monitoring Institute and Human Rights Watch addressed the Lithuanian authorities urging to continue investigations into the State's role in CIA rendition. No actions have been taken in this regard.
26. In 2013, the application on behalf of Abu Zubaydah was communicated to the Government of Lithuania by the European Court of Human Rights. In its response the Government submitted that "[t]he Prosecutor General's Office have made a serious attempt to find out what happened in relation of allegations raised, and, if parliamentary investigation was not able to eliminate all doubts in regard to transportation of detainees and existence of secret CIA prisons, this was done within the course of the pre-trial investigation conducted by the Prosecutor General's Office" (para. 53). The Government's response suggests that it had no intention to fulfil its obligation to conduct a thorough, independent and impartial investigation into the treatment of persons prohibited under Article 2 of the CAT.
27. In September 2013, HRMI and REDRESS submitted to the Prosecutor General's Office a joint request to open pre-trial investigation concerning suspicion of criminal offences committed in Lithuania against Mustafa al-Hawsawi, alleged CIA rendition victim who is currently facing capital charges before Military Commission in Cuba, Guantamo. The complainants requested Prosecutor General to investigate data on CIA rendition flights related with possible transfer of Mr al-Hawsawi across Lithuanian border and seek testimony from the detainee.
28. On 2 October 2013 HRMI and REDRESS were notified of the Prosecutor's decision not to open a criminal investigation into the circumstances detailed in the complaint. The Prosecutor based his decision on the grounds that the previous criminal inquiry, which was carried out in the abuse of office by former State Security Department's officials, denied all allegations that CIA detainees could have been brought into Lithuania and held in secret detention.
29. On 28 January 2014, Vilnius regional court upheld HRMI and REDRESS's appeal and found that in the light of serious allegations concerning breaches of national and international law, the law enforcement authorities should demonstrate an adequate response. The court ruled that victims had not only the right to efficient investigation, but also the right to be heard and give evidence in the proceedings.
30. On 20 February 2014 the Prosecutor-General's office notified HRMI and REDRESS that it had opened an investigation into indications of a criminal activity, provided for in Article 292 Para 3 of the Criminal Code of the Republic of Lithuania (illegal transportation of persons across state border). The investigation is ongoing.

Recommendations:

- Ensure that the ongoing criminal investigation into allegations concerning Mustafa al-Hawsawi is independent, impartial, thorough, and effective, in conformity with Lithuania's international obligations, including under the Convention against Torture;
- Re-open the wider criminal investigation into Lithuanian state agencies' and actors' involvement in the CIA Program, including allegations concerning Abu Zubaydah;
- Expand the terms of reference of the investigation/s expressly to include human rights violations arising from collaboration of the Lithuanian government with the USA in the CIA Program;
- Seek preservation and disclosure of all relevant evidence in the possession of US authorities, including the CIA, Department of Defence, FBI and other relevant agencies, on: the transfer of individuals to and from Lithuania and the treatment of any individuals detained in Lithuania; information concerning the

³⁶ Ibid.

construction of secret detention facilities in Lithuania; and CIA Program linked flights into and out of Lithuania;

- Ensure that the criminal investigation examines the potential responsibility not only of Lithuanian actors, but US actors who were engaged in activities on Lithuanian territory;
- Bring to justice in fair trials any individuals identified as responsible for criminal human rights violations – including illegal deprivation of liberty and transfer of detainees; enforced disappearance; and torture and other cruel, inhuman or degrading treatment – that may have occurred in connection with and within secret CIA detention centres established in Lithuania between 2002 and 2006;
- Provide information to the public and alleged victims about the steps undertaken in the previous criminal investigation;
- Refrain from invoking state secrecy to shield the government and state actors from accountability for complicity in the CIA operated program of rendition and secret detention;
- Ensure that any named victims and/or their representatives are granted the right to full participation in the investigation in conformity with the internationally recognized right of victims of human rights violations to effective redress, and where necessary seek access to such victims to allow this.

3. ARTICLE 10

3.1. Issues raised under paragraph 11 of the List of issues

3.1.1. *Refugee status determination procedure and assistance in house*

31. To date there is only one psychologist and two social workers employed by the Foreigners' Registration Centre (one of which part time worker) that provide services at the Foreigners' Registration Centre for 91 person (both detained foreigners (including detained asylum-seekers) and free asylum-seekers). Furthermore, the head of the Foreigners Registration Centre informed HRMI that the psychologist provides consultations to the staff members of the Centre as well. Naturally, the workload is huge and thus not all residents of the Foreigners' Registration Centre do in fact receive effective consultations and assistance. During the 4 April 2014 HRMI visit to the Centre, a detained Palestinian asylum seeker noted that during a month of his stay at the Centre, he had not been visited by psychologist even once.
32. Furthermore, the psychologist working at the Centre provides consultations in Lithuanian, Russian or Polish languages only. Since the interpretation services by a professional interpreter into other languages are not available at the Centre, a large number of English and other language-speaking residents of the Centre do not have even a theoretical possibility to receive psychological consultations.
33. Though the Lithuanian legislation provides that asylum seekers are exempt from detention, even in cases when they enter or stay illegally in the country, the practice does not follow this rule. For example, in the beginning of April 2014, 32 asylum seekers were detained at the Foreigners' Registration Centre in the block designed for detained foreigners without any possibility to move freely. One of them, a disabled asylum seeker from Afghanistan, has been detained for 18 months already.³⁷
34. In some cases, pre-trial investigations are initiated against asylum seekers in Lithuania for illegal border crossing. In 2012, a Syrian family of five was detained for illegally crossing the Lithuanian border:³⁸ parents were sent to the Lukiškės Remand Prison, and three children of 3, 7 and 12 years

³⁷ Information gathered during the 4 April 2014 HRMI visit to the Foreigners' Registration Centre

³⁸ "9 illegals from Georgia, and, allegedly, Syria were arrested on the Russian and Belarussian border", 20 December 2012. Available at http://www.pasienis.lt/lit/Pasienyje_su_Baltarusija_ir_Rusija_sulai/5958

were taken to children care home in Šakiai.³⁹ The children were not able to speak with anybody there because of the language barrier, and parents could not see their children for almost two weeks.

35. In April 2013, two Afghani citizens arrived to Lithuania, claiming to be 14 and 17 years of age, and seeking for asylum. The Lithuanian law enforcement authorities opened a pre-trial investigation against them for illegal border crossing and requested for their detention. The court granted the prosecution's request and the two Afghani minors were sent to Lukiškės Remand Prison where both of them spent more than three months.⁴⁰ The minors were provided with a state appointed lawyer, but they met their lawyer only twice, i.e. first time right before the court proceedings on detention, second time – before the court proceedings on extending detention. The minors could not communicate with the lawyer because of the language barrier.⁴¹
36. Lukiškės Remand prison is a facility designed for adult men, therefore detention of children there is illegal. Although the Lithuanian authorities claimed to have established the two Afghanis' age (both allegedly of 20-24 years of age) through the x-ray bone assessments,⁴² the accuracy and reliability of this test remains a concern worldwide. Since, as noted by the UNICEF, age assessment is not as exact science and a considerable margin of uncertainty will always remain inherent in any procedure, individuals whose age is being assessed should be given the benefit of the doubt.⁴³ In other words, when the age of an asylum seeker is uncertain and there are reasons to believe that the person is a child, he or she should be presumed to be a child.
37. In July 2013, the minors were granted asylum in Lithuania, however, they remain to be considered adults with no possibility to attend school and receive benefits available for unaccompanied minors.

Recommendations:

- Establish additional position of a permanent psychologist and social worker at the Foreigners' Registration Centre to ensure adequate provision of services for all residents;
- Hire an English speaking psychologist and social worker to enable direct communication with the residents;
- Issue guidelines for the State Border Guard Service under the Ministry of Interior, prosecution (Prosecutor General's Office), police (Police department under the Ministry of Interior), judiciary (National Courts Administration, Ministry of Justice) on exempting asylum seekers from criminal liability and detention even in cases where they enter or stay illegally in the country;
- Organise and conduct training for law enforcement institutions, including the State Border Guard Service and prosecution, as well as judiciary on non-application of criminal liability for asylum seekers for illegal border crossing, as well as on the special needs of vulnerable asylum seekers or unaccompanied minors;
- Ensure adequate and continuous state support and funding for non-governmental organisations working to support asylum seekers;
- Ensure accessibility of legal aid to asylum seekers and detained foreigners throughout the proceedings, whilst ensuring the quality of that aid through independent control mechanisms.

³⁹ Š. Bulota "Lutheran priest Virginijus Kelertas, the soul of Šakiai Children home: "We should stop sighing"", *15min.lt*, 24 December 2012, <http://www.15min.lt/naujiena/kaledos/zinios/sakiau-vaiku-namu-siela-liuteronu-kunigas-virginijus-kelertas-baikime-dusauti-162-290956>

⁴⁰ D. Sinkevičius "Minors from Afghanistan were forced to watch pornography at Lukiškės prison during the time of prayers", *delfi.lt*, 27 March 2014, <http://www.delfi.lt/news/daily/lithuania/to-dar-nebuvo-lukiskese-nepilnamecius-is-afganistano-maldu-metu-verte-ziureti-pornografija.d?id=64384678>

⁴¹ Communication with the Afghani minors, 27 March 2014

⁴² State Forensic Medicine Service under the Ministry of Justice of the Republic of Lithuania, *Regarding the methods of age assessment of human being*, No 1.5-SD-476, 19 July 2013

⁴³ United Nations Children's Fund (UNICEF), *Age assessment practices: a literature review and annotated bibliography*, April 2011, at 38. Available at http://www.unicef.org/protection/Age_Assessment_Practices_2010.pdf

4. ARTICLE 11

4.1. Issues raised under paragraph 14 of the List of issues

4.1.1. *Overcrowding and conditions of the imprisonment facilities*

38. Overcrowding continues to be a substantial issue in Lithuanian imprisonment facilities. The Prison Department's annual report for 2013 indicates that 3 out of 11 facilities suffered from overcrowding that year, holding populations of prisoners ranging from 103.7% to 118.6% of their maximum capacity.⁴⁴ The majority of other prisons were near full.
39. In each facility, in order to guarantee the safety and better chance of rehabilitation, various groups of inmates are held separately from others. This is based on such criteria as nationality, type of committed crime, history of reoffending etc.⁴⁵ This, in turn, leads to an uneven allocation of prisoners within an imprisonment facility. Thus, taking into account the already near maximum filling of the majority of prisons, the real scale of overcrowding is likely to be significantly higher than indicated.
40. In paragraphs 93 and 94 of the Lithuania's 3rd Period Report the plans for renovations of Lithuanian imprisonment facilities are laid out, which include construction of five new imprisonment facilities by 2017, including moving the Lukiškės Prison from Vilnius to a newly established facility in Pravieniškės by 2014. HRMI notes with concern that the Lukiškės Prison has not been moved to Pravieniškės, nor the facilities for it or the other four indicated prisons have been constructed. Furthermore, there is currently nothing to indicate that the construction of the new prison buildings will take place in the time line suggested in paragraphs 93 and 94 of the Lithuania's 3rd Periodic Report.
41. Overcrowding is also an issue in the Foreigners' Registration Centre. Though formally, the legal requirement of 5 m² per person is met at the detained foreigners' facility,⁴⁶ certain rooms accommodated more persons than others, and thus exceed legal requirements.⁴⁷ The situation in the asylum seekers' facility is similar, i.e. in cases where families of several members (with children or elderly) want to stay together in one room, the legal requirement of 5 m² per person may be not observed.⁴⁸
42. The conditions in the detained foreigners' block could be defined as degrading: walls are crumbled and mouldy, rooms do not have enough chairs or lockable drawers or cabinets for every resident.⁴⁹
43. A right to exercise one's religion at the Center has also been called in question. On 6 January 2014, the Equal Opportunities Ombudsperson considered the complaint regarding the provision of meals at the Centre without taking into account the freedom of religion of the residents, i.e. Muslims were provided with pork as the only choice of meat at the Centre even though they do not eat pork, and Buddhists do not eat meat at all. At that time, the Centre accommodated 157 foreigners,

⁴⁴ Prison Department under the Ministry of Justice annual report for 2013, at 5. Available at http://www.kalejimudepartamentas.lt/download/3934/skmbt_c28014031015080.pdf (accessed 24 March 2014)

⁴⁵ Lithuanian Criminal Punishment Enforcement Code of the Republic of Lithuania, No IX-994, 27 June 2002, Article 70

⁴⁶ In April 2014, during the HRMI's visit to the Foreigners' Registration Centre, the second floor of the detained foreigners held 45 male foreigners in a facility of around 354 m²

⁴⁷ Information gathered during 4 April 2014 HRMI visit to the Foreigners' Registration Centre

⁴⁸ Ibid.

⁴⁹ Ibid.

55 of which (35%) were Muslims.⁵⁰ The Ombudsperson held that Muslims were indeed discriminated and recommended to change the legislation as well as the practice.⁵¹

44. Though on 31 January 2014, the Minister of Interior adopted an amendment stipulating that if a person refuses to eat certain food because of his or her religious beliefs, the food will be replaced with alternative food taking into account the approved physiological nutrition standards,⁵² the practice has not changed. This means that the Centre may still have a day menu where pork is the only choice of meat.⁵³ According to the management of the Centre, they have seen Muslim people eating pork so there should not be any problem for all of them to eat it; the head of the Centre also added that he had talked to the Muslim residents himself and they do not seem to raise any issues with being provided pork as the only choice of meat. He also noted that persons cannot choose which religious rules they wish to follow and which they do not, therefore, eating pork for Muslims should be as proper as eating meat prepared in other way than halal.⁵⁴

Recommendation:

- Facilitate the prison reform in Lithuania by building new prison facilities and moving inmates from overcrowded prisons without due delay;
- Ensure that conditions at the Foreigners' Registration Centre, especially in the part for the detained foreigners, comply with the minimum requirements and do not amount to degrading treatment of inmates;
- Respect and implement the right to freedom of religion of all the foreigners, ensuring that persons who refuse to eat certain food because of their religious beliefs, will be provided with alternative meals, taking into account the approved physiological nutrition standards.

4.2. Issues raised under paragraph 15 of the List of issues

4.2.1. Inter-prison violence

45. The type of the majority of Lithuanian imprisonment facilities – 7 out of 11 – are “correction houses”. Correction houses in Lithuania do not have a cell system like many regular prisons, instead they have an open inner structure, where prisoners are accommodated in large shared dormitories and can move freely inside the premises during daytime. During night time the prisoners are required to stay in the sleeping quarters of their dormitories.
46. Due to this open structure, caste systems are prevalent in Lithuanian correction houses. Depending on the caste which they belong to, prisoners are treated with different degree of respect by other inmates, which may lead to abuse, degrading treatment and physical abuse of prisoners at the bottom rungs of the caste system. A person's allocation to a caste depends on a number of factors, including his or her outside affiliations, personality and psychological and physical strength, reasons for his or her imprisonment.
47. Prisoner accounts reported by the press indicate that administrations of the correction houses are fully aware of the existence of caste systems amongst prisoners, and actually assist in enforcing

⁵⁰ Equal Opportunities Ombudsperson Office, *Note on examination of complaint of Nadim M. Musa and other residents of the Foreigners' Registration Centre*, 6 January 2014, No 13-SN-260. Available at http://www.redcross.lt/files/Kontrolieriaus_tarnybos_sprendimas.pdf

⁵¹ Ibid.

⁵² Minister of Interior, *Order on amendment of Approval of procedure and conditions for temporary accommodation of foreigners at the Foreigners' Registration Centre*, No 1V-42, 31 January 2014

⁵³ That was the case, for example, during HRMI's visit to the Centre on 4 April 2014

⁵⁴ All the comments were said during the HRMI's visit to the Foreigner's Registration Centre, 4 April 2014

them.⁵⁵ In September 2012 that riots broke out in Marijampolė Correctional House and according to reports, the violent unrest was provoked by the officers at the facility who try to ingratiate themselves with the "verkhi" (the top caste prisoners). A prisoner was quoted as having said, "This whole incident has been provoked by Marijampolė correctional house officers. They put up with it and allow that the control remains in the hands of the "verkhi". The officers are aware that large scale drug distribution is going on, they tolerate telephone fraud, do not prohibit humiliation of other inmates".

Recommendation:

- Develop educational programmes to ensure that all prison staff are fully aware of the provisions of the Convention;
- Hold accountable prison staff who have facilitated or actively participated in stimulating the existing caste system;
- Take effective measures, including providing educational, psychological, social and other support to inmates, to eradicate the caste system in Lithuanian prisons.

5. ARTICLE 12 IN CONJUNCTION WITH ARTICLE 13

5.1. Issues raised under paragraph 19 of the List of issues

5.1.1. Violence in the Foreigners' Registration Centre

48. On 18 October 2013, the officers of the Foreigners' Registration Centre and of the State Border Guard Service conducted an unexpected check up at the Foreigners' Registration Centre, namely at the block of the detained foreigners.⁵⁶ These kind of check-up raids is a regular practice at the Centre.⁵⁷ After the raid, a group of nine detained foreigners submitted a complaint with the law enforcement authorities regarding the disproportionate use of violence against the detainees during the raid. They argued that they were pushed, kicked and beaten, as well as psychological violence was used against them.⁵⁸

49. The prosecution refused to open a pre-trial investigation, arguing that there was no evidence of disproportionate violence. Only after the decision of the pre-trial judge, the prosecution finally initiated the investigation. The investigation is currently ongoing.⁵⁹

Recommendations:

- Ensure that the pre-trial investigation is conducted thoroughly and effectively with a purpose to establish whether the means employed by the Foreigners' Registration Centre during the 18 October 2013 raid were necessary and proportionate;
- Should the fact of violence be established, hold perpetrators accountable and provide redress to the victims of the crime;
- Should the fact of violence be established, take effective prevention measures to ensure that instances of violence are not repeated and inmates are treated in respectful and professional manner.

⁵⁵ A. Kuznecovaitė „Convicts: riots at Marijampolė Correctional House were provoked by officers“, 4 September 2012, *Irytas.lt*, <http://www.irytas.lt/-13466816141345322386-nuteistieji-riau%C5%A1es-marijampol%C4%97s-pataisos-namuose-i%C5%A1provokavo-pareig%C5%ABnai.htm>

⁵⁶ "State border officers used force to restrain resisting Georgian illegals during the check up", 18 October 2013, http://www.pasienis.lt/lit/Patikrinimo_metu_pasienieciams_priesines/6791

⁵⁷ Ibid.

⁵⁸ Complaint submitted by nine foreigners regarding the disproportionate use of violence and detention conditions at the Foreigners' Registration Centre, 18 October 2013

⁵⁹ Communication with Lithuanian Red Cross society lawyer on 13 March 2014

5.1.2. Protection against ill-treatment or intimidation as a consequence of the complaint

50. Article 13 of the Convention providing that steps shall be taken to ensure that individuals who allege they have been subjected to torture are protected against all ill-treatment or intimidation as a consequence of their complaint, has not been abided in practice. On 2 July 2010, a person held in pre-trial detention, submitted an official complaint alleging violence used against her by law enforcement officers on two occasions: while she was detained in Vilnius police station and when she was questioned at the Prosecutor General's Office. Lithuanian law enforcement institutions refused to open a pre-trial investigation into the person's allegations. The final court ruling upheld prosecution's decision not to investigate the alleged violence used against a person in detention.⁶⁰
51. Based on that ruling, on 14 December 2011, Vilnius district prosecution office indicted the complainant with a crime of false testimony (Article 235(1) of the Criminal Code) and report about a non-existent crime (Article 236 of the Criminal Code). On 8 May, 2013, Vilnius district court found the complainant guilty on those charges and imposed a criminal fine of 2600 Litas (approx. €754).⁶¹ The Lithuanian Appellate Court upheld the decision of the lower court.

Recommendations:

- Ensure that individuals who allege they have been subjected to torture or ill-treatment by the state authorities are protected against all ill-treatment or intimidation as a consequence of their complaint.

6. ARTICLE 13 IN CONJUNCTION WITH ARTICLE 2

6.1. Issues raised in paragraph 20 and 5 of the List of issues

6.1.1. Domestic Violence

52. On 26 July 2013, European Court of Human Rights issued its decision in domestic violence case *Valiulienė v. Lithuania*.⁶² The Court found the State guilty of violating Article 3 of the Convention which prohibits torture, inhumane or degrading treatment. In November 2013, Lithuanian Government issued a unilateral declaration in *D.P. v Lithuania*, another domestic violence case before the ECtHR, where it acknowledged violation of Article 3. The Government recognised that the criminal proceedings in the case were defective to the point of constituting violation of the State's positive obligations under Article 3 of the Convention.
53. The enactment of special *Law on Protection against Domestic Violence* in 2011⁶³ revealed the actual scope and prevalence of the domestic violence crime (DV) in Lithuania. The police responded to 18 268 DV related call-outs and launched 7 586 criminal investigations in 2012 alone.⁶⁴ In 2013, the figures further increased: 21 615 call-outs and 10 015 criminal investigations.⁶⁵ This accounts for 10,5 percent of the total crimes committed annually.⁶⁶ 82,7 percent of victims in 2012 were women, this figure decreasing only by 1 percent in 2013 with 81,7 percent of victims being women.⁶⁷
54. The law aims at protecting persons against domestic violence, which, due to damage caused to society, is attributable to the acts of public significance warranting public prosecution. The new

⁶⁰ Decision of the Vilnius regional court, case No 1A-384/2011, 28 March 2011

⁶¹ Judgment of the Vilnius district court, Process No. 1-01-2-00030-2011-1, 8 May 2013

⁶² ECtHR, *Valiulienė v. Lithuania*, Application No. 33234/07, 26 March 2013

⁶³ Law on Protection against Domestic Violence, No. XI-1425, 26 May 2011

⁶⁴ „Data related with domestic violence in 2012“, Police Department under the Ministry of Interior, www.policija.lt

⁶⁵ „Data related with domestic violence in 2012 and 2013“, Police Department under the Ministry of Interior, www.policija.lt

⁶⁶ Ibid.

⁶⁷ Ibid.

legislation effectively abolished private prosecution in DV cases and released victims from the obligation to submit an official complaint to law enforcement authorities.

55. The law defines “violence” as an intentional physical, mental, sexual, economic or another influence exerted on a person by an act or omission as a result whereof the person suffers physical, property or non-pecuniary damage“. “Domestic environment” is defined as “the environment comprising the persons currently or previously linked by marriage, partnership, affinity or other close relations, also the persons having a common domicile and a common household.”
56. The definition of “violence” in the special DV law lists various forms of violence, but it does not provide for more elaborate definitions of any of those forms nor does it extend to encompass patterns of abusive, coercive or controlling behaviours. There are no comprehensive criminal definitions in any other laws covering violent relationships in a more holistic manner either.
57. In terms of criminal law, domestic violence crime is punishable under the Criminal Code as isolated acts (for example, Health Impairment (Articles 135-140); Threatening to Murder or Cause a Severe Health Impairment to a Person or Terrorisation of a Person (Article 145); Restriction of Freedom of a Person’s Actions (Article 148); Crimes and Misdemeanours against Freedom of a Person’s Sexual Self-determination and Inviolability (Articles 149-153)).⁶⁸ The criminal law does not include a definition of stalking. Actions similar to stalking are punishable only under Article 167 of the Criminal Code which prohibits “unlawful collection of information about person’s private life”.

Recommendations:

- Expand definition of domestic violence to encompass patterns of violent, abusive and controlling behaviours and introduce domestic violence as a separate crime in the Criminal Code.
- Introduce definition of stalking in the Criminal Code.

6.1.2. Inefficiency of protective measures

58. There are two kinds of protective measures foreseen in the DV law. Art. 5 provides for protective measures applied by the order of the court throughout the criminal proceedings up until completion of the examination of the case. Art. 6 provides for the application of victim protection measures that should be applied immediately by police officer upon recording an incidence of domestic violence. Protection measures applied after the conviction such as an obligation to reside separately from the victim are provided for in the Criminal Code.
59. The practice of the application of protection measures is not uniform because the Criminal Procedure Code does not include protection measures. It provides for remand measures that in some instances could serve as protective measures such as obligation to reside separately or detention but remand measures have specific grounds and conditions for their application. This results in some courts ordering protection measures and some refraining from their application due to the circumstance that protection measures are not provided for in the Criminal Procedure Code, whereas remand measures were designed for other purposes, and the courts cannot interpret the criminal procedure law provisions widely.⁶⁹
60. Another obstacle is that remand measures are applied by the court only upon prosecutor’s request, hence if prosecutor does not request specific remand measure, it cannot be ordered by the court. Another issue raised by victim support services is that there are no efficient sanctions

⁶⁸ Criminal Code, No. VIII-1968, 26 September 2000

⁶⁹ Information from police officers gathered at a public round-table discussion on the DV law, organized by Vilnius Special Support Centre on 4 December 2013

for breaching court orders, and violation of remand or protection measures would not necessarily lead to application of other, stricter measures.⁷⁰

61. This legal uncertainty leads to situations, where the courts not only fail to apply protection measures, but also grant application of such remand measure as home arrest, which can cause real risk and danger to the victim.⁷¹ This concerning trend is an indicative example of the absence of individual victim needs assessment with regards to protection from repeated victimisation, retaliation or intimidation. Victims of domestic violence are treated in criminal proceedings as victims of any other crimes, without taking their special protection needs into account.
62. Reconciliation procedure is also still widely used in DV cases during both, pre-trial investigation and trial stage, without taking into account specific nature of DV crime and its repetitive pattern, and without detailed assessment of the possible risk and danger to the victim. According to information provided by prosecution office, reconciliation procedure in domestic violence cases is used as in any other criminal cases, and no changes to the application of this procedure were introduced after the adoption of the special DV law.⁷²
63. To conclude, the entirety of laws and the practice of their implementation in Lithuania fail to ensure adequate and comprehensive protection of DV victims. Some of the issues are expected to be solved by amending the DV law – the Parliament approved amendments of the law on 10 April 2014, the most important one being the obligation to police officers to notify immediately victim support services of domestic violence incident and provide the services with contact details of the victim without requiring her written consent.
64. Apart from this, the amendments did not introduce any substantial changes that would deal with systemic flaws in victim protection or the lack of individual needs assessment during the proceedings. A more comprehensive revision of existing laws and developing practice is needed along with guidelines/recommendations and trainings to law enforcement and judiciary on dealing with domestic violence cases that would provide basis for development of uniform and sound practice.
65. Policy measures such as recommendations and guidelines should be aimed at familiarizing law enforcement officers and the courts with specific nature of DV crime, special needs that DV victims have in criminal proceedings, and increasing their understanding why DV requires a different approach than other violent crimes. This would help to build victims' trust in authorities and legal proceedings which is currently rather low.

Recommendations:

- Conduct assessment of the current legal framework and its ability to ensure efficient DV response and protection of DV victims, evaluate the developing practice and design legal and policy measures for improvement;
- Introduce victim protection measures in the Criminal Procedure Code, detail the grounds and conditions for their application, and sanctions for violation of protection measures;
- Widely consulting with experts and victim support services providers, issue recommendations/guidelines for prosecutors (Prosecutor General's Office), police (Police department under the Ministry of Interior), judiciary (National Courts Administration, Ministry of Justice) on handling domestic violence cases.

⁷⁰ Telephone communication with Vilnius Specialized Support Centre, 2 April 2014

⁷¹ Ibid.

⁷² Telephone consultations with a prosecutor at Vilnius District Prosecution Office, 11 July 2013

6.1.3. Inadequate policy measures

66. National Programme for Prevention of Domestic Violence and Provision of Support to Victims 2014-2020 is under preparation at the Ministry of Social Security and Labour and the Government.⁷³ The draft programme has been criticized by victim support services for placing too much focus on abusers and diverting the already very sparse financial resources from victim support services to correctional programmes for changing violent behaviour.⁷⁴
67. Selected indicators for measuring the effectiveness of the programme's objectives also raise some concerns. For example, one of the criteria is "decreased number of investigations in domestic violence crimes" which is not the most accurate criteria bearing in mind the latency of the crime, vulnerability of victims and social stigma attached, under-resourced victim support services and the lack of protection, and respectful and sensitive treatment of victims throughout the proceedings.⁷⁵
68. There is no gender aspect integrated in the programme despite that DV is a gender-based crime because it affects women disproportionately. After the adoption of the DV law, implementation of the *National Strategy of Combating Violence against Women* was discontinued, although it was planned to run until 2015. Domestic violence is also excluded from the *National Programme of Equal Opportunities between Women and Men 2010-2014*. Hence the overall state's response to DV is marked by the lack of gender-sensitive approach because gender aspect is reflected neither in legislation, nor in policies.

Recommendations:

- Ensure that all DV legislation and policies clearly prioritise victims' needs for protection and support;
- Ensure that policy measures: a) are designed in consultation with victims and victim support services providers and take their views into account; b) are based on surveys, research and accurate situation assessment; c) have clear, logical and well-founded objectives, criteria and indicators;
- Reintroduce National Strategy on Combating Violence against Women and ensure that all DV policies are based on gender-sensitive approach and integrate gender aspect.

6.1.4. Violence against children

69. The laws do not ensure efficient protection of children from all forms of violence in all environments. Legislative attempts in 2010 and 2013 to prohibit all forms of violence against children including corporal punishment were unsuccessful. Corporal punishment is not explicitly banned and is considered lawful in Lithuania. The Law on Protection against Domestic Violence is not interpreted in a way as to prohibit corporal punishment of children, and public opinion polls show high levels of acceptance of corporal punishment as a child rearing method.⁷⁶
70. Multi-agency cooperation in child abuse cases remains a continuous problem.⁷⁷ There is no established multi-agency cooperation procedure that would oblige all professionals encountering children respond to child abuse and that would provide uniform and detailed instructions to follow on all levels. The Criminal Code provides for an obligation to report child abuse to police or child

⁷³ Telephone communication with Vilnius Specialized Support Centre, 2 April 2014

⁷⁴ Ibid.

⁷⁵ List of Evaluation Criteria and their Indicators for the National Programme on Prevention of Domestic Violence and Provision of Support to Victims 2014-2020, draft document. Available at

http://www.lrs.lt/pls/proj/dokpaieska.showdoc_l?p_id=223901&p_org=7&p_fix=y&p_gov=n

⁷⁶ Ieva Urbonaitė-Vainienė „Half of parents beat their children“, *delfi.lt*, 14 January 2013,

<http://www.delfi.lt/news/daily/education/apklausa-puse-tevu-musa-vaikus.d?id=60413791>

⁷⁷ Based on alternative NGO report to UN Child Rights Committee, 2012, Vilnius, Available at

http://www.hrmi.lt/uploaded/PDF%20dokai/CRC_Alternative_Report_Lithuania_NGO_Group_20120816_1.pdf

rights protection services, but more detailed procedure for multi-agency cooperation is not developed neither in the form of legislation, nor the policy.

Recommendations:

- Explicitly prohibit all forms of violence against children, including corporal punishment;
- Introduce multi-agency cooperation procedure that would ensure efficient and coordinated response to child abuse with clear instructions to follow when encountering abused children.

7. ARTICLE 14

7.1. Issues raised in paragraphs 21 and 22 of the List of issues

7.1.1. Support services for victims of domestic violence

71. Since the DV law came into force at the end of 2011, the workload of DV victim support services has significantly increased. Before the adoption of the law, the services were provided by NGOs funded by foreign and international donors with little to no public funding. The new legislation imposed obligation on the state to provide specialised integrated support to all DV victims, and the authorities decided to use the existing NGO network to build the services on.
72. However, according to information available on the website of the Ministry of Social Security and Labour which is responsible for specialised support to DV victims, in 2012, the annual funding allocated to specialised support centres ranged between 24 617 EUR to 3446 EUR a year.⁷⁸ In 2013, a total of 286 000 EUR were allocated to all specialised support centres, and the same amount was allocated in 2014.⁷⁹ That means that the entire victim support services throughout the country must provide services for the whole year together receiving only 286 000 EUR state funding. Using these very limited funds, the services not only have to provide the services and ensure day-to-day running of the offices, but also raise public awareness and disseminate information on the services.
73. The provision of support to victims is further obstructed by the lack of cooperation on part of police authorities, resulting in limited number of referrals. The police fail to put in the effort to refer victims to support services whilst requesting from the victims their written consent (although the law does not require written consent) and justifying such practice with the need to protect personal data. There is a lack of training for the police on specialized integrated support, which results in the inability to provide victims with sufficient and adequate information on the services and the lack of understanding of the importance of such support services that could guide victims throughout the proceedings.

Recommendations:

- Ensure adequate and continuous state funding to victim support services;
- Ensure that victims are referred to victim support services by police officers and that all professionals encountering victims of domestic violence would inform them of free specialized integrated support they are entitled to;
- Raise public awareness of the integrated support services and widely disseminate information on the services available, or, alternatively, ensure adequate funding for conducting such activities to specialized victim support services.

⁷⁸ Information available on the Ministry's website at <http://www.socmin.lt/lt/konkursai/konkursu-rezultatai/archive/specializuotos-pagalbos-centru-hdbk.html>

⁷⁹ Information from the Ministry of Social Security and Labour gather at a public round-table discussion on the DV law, organized by Vilnius Special Support Centre on 4 December 2013

- Provide sensitivity trainings to police officers on special support needs of DV victims and the significance of special integrated support to DV victims.

7.1.2. *Child victim support*

74. Generally, psychological support for children who suffered from physical or psychological support is available in Pedagogical psychological services, schools and mental health centres (the latter provide psychiatric help as well). However, the number of staff is insufficient and availability of the long-term psychological help and psychotherapy is very limited.⁸⁰
75. Only NGOs located in the largest cities offer integrated help. However, these NGOs are dependent on partial state funding awarded annually by the Ministry of Social Affairs and Labour through project tenders. This results in lack of sustainability of services. The continuous and stable long-term funding is necessary in order to provide efficient support to child victims of abuse. Furthermore, law enforcement officers and various specialists are not obliged to refer abused children and families to specialised support services, thus many of them are not aware of what help they are entitled to and how they can receive it.

7.1.3. *Victim protection and support, including victims of torture and ill-treatment*

76. In Lithuania, there are no special victim protection and support legislation or policies apart from the special DV law and DV victim support services. Neither criminal procedure law, nor other laws address special protection and support needs of vulnerable victims such as victims of torture and ill-treatment or victims of sexual violence. There is no individual victim needs assessment conducted during the criminal proceedings. The legal rights of minor victims in the proceedings have been enhanced by transposing EU directives on sexual abuse and exploitation of children into the Criminal Procedure Code, however, the overall protection and support to minors throughout the proceedings remains inadequate. As regards victims of other crimes, there are no general victim support services in Lithuania that would provide support to victims of various crimes.

Recommendations:

- Adopt a special law on protection of victims of crime and support to victims that would establish standards of protection throughout criminal proceedings, and would set up a system of support to all victims of crimes, with special focus on vulnerable victims who have special needs, such as children, victims of torture and ill-treatment, victims of sexual violence, abuse and exploitation, victims of human trafficking;
- Align the provisions of the special law with Criminal Code and Criminal Procedure Code and other laws;
- Establish and provide adequate funding to specialised integrated support services to victims of crimes;
- Ensure accessibility of legal aid to victims throughout the proceedings, whilst ensuring the quality of that aid through independent control mechanisms;
- Train law enforcement and judiciary on the special needs of victims in the proceedings, including the application of protective measures and sensitive and respectful treatment.

⁸⁰ This part is based on alternative NGO report to UN Child Rights Committee, 2012, Vilnius. Available at: http://www.hrmi.lt/uploaded/PDF%20dokai/CRC_Alternative_Report_Lithuania_NGO_Group_20120816_1.pdf

8. ARTICLE 15

8.1. Issues raised under paragraph 30 of the List of issues

8.1.1. Rights of asylum seekers

77. Contrary to the recommendation issued by the UN Committee against Torture on 19 January 2009, the Foreigner's Registration Centre has not yet established appropriate reception conditions for asylum seekers with special needs, such as single women, women with children and traumatized asylum seekers, by providing them with separate accommodation.
78. Though the State reported that as far as it is possible, vulnerable persons are accommodated separately from the other individuals in the premises designated for asylum seekers, there are no separate premises at all available for the asylum seekers with special needs. Moreover, the environment in the Foreigners' Registration Centre, due to its militarized nature and hierarchical structure, is not suitable for asylum seekers, especially for the ones with special needs.
79. The foreigners are not treated in sensitive and respectful manner at the Foreigner's Registration Centre. The residents indicate that the staff most commonly addresses them by numbers using singular second-person personal pronouns, and in such a way as to demonstrate power and superiority. A degrading term "an illegal" is also used frequently by state authorities to refer to detained foreigners in their official statements or press releases.⁸¹

Recommendation:

- Ensure appropriate reception conditions for asylum seekers with special needs, such as single women or women with children and traumatized asylum seekers, by providing them with separate accommodation;
- Organize and conduct training for staff members of the Foreigners' Registration Centre on the identification of special needs of asylum seekers;
- Organize and conduct training for the Ministry of Interior, the State Border Guard Service, as well as for the Foreigners' Registration Centre on a sensitive and respectful manner of behaviour with all the foreigners despite their legal status, e.g. abandonment of a term "an illegal" when referring to a detained foreigner who has crossed the border or stayed in the country illegally; not addressing foreigners residing at the Foreigners' Registration Centre by numbers and not using singular second-person personal pronoun instead of plural one (in Lithuanian *Jūs* should be used instead of *Tu*, and the same for Russian language);
- Ensure that all foreigners are informed of their basic human rights, including the right to interpretation, right to free legal aid as well as the right to seek asylum in the country.

⁸¹ For example, "State border officers detained a group of illegals from Vietnam in Vilnius area", 14 February 2014, http://www.pasienis.lt/lit/Vilniaus_rajone_pasienieciai_sulaike_nel/7107; "Four illegals from Georgia detained close to Druskininkai", 21 March 2014, http://www.pasienis.lt/lit/Netoli_Druskininku_sulaikyti_keturi_nel/7195/2; "SBGS officers detained five illegals from India in Švenčionys area", 13 December 2013, http://www.pasienis.lt/lit/Svencioniu_rajone_VSAT_pareigunai_sulaik/6958/1; "State border officers used force to restrain resisting Georgian illegals during the check up", 18 October 2013, http://www.pasienis.lt/lit/Patikrinimo_metu_pasienieciams_priesines/6791.