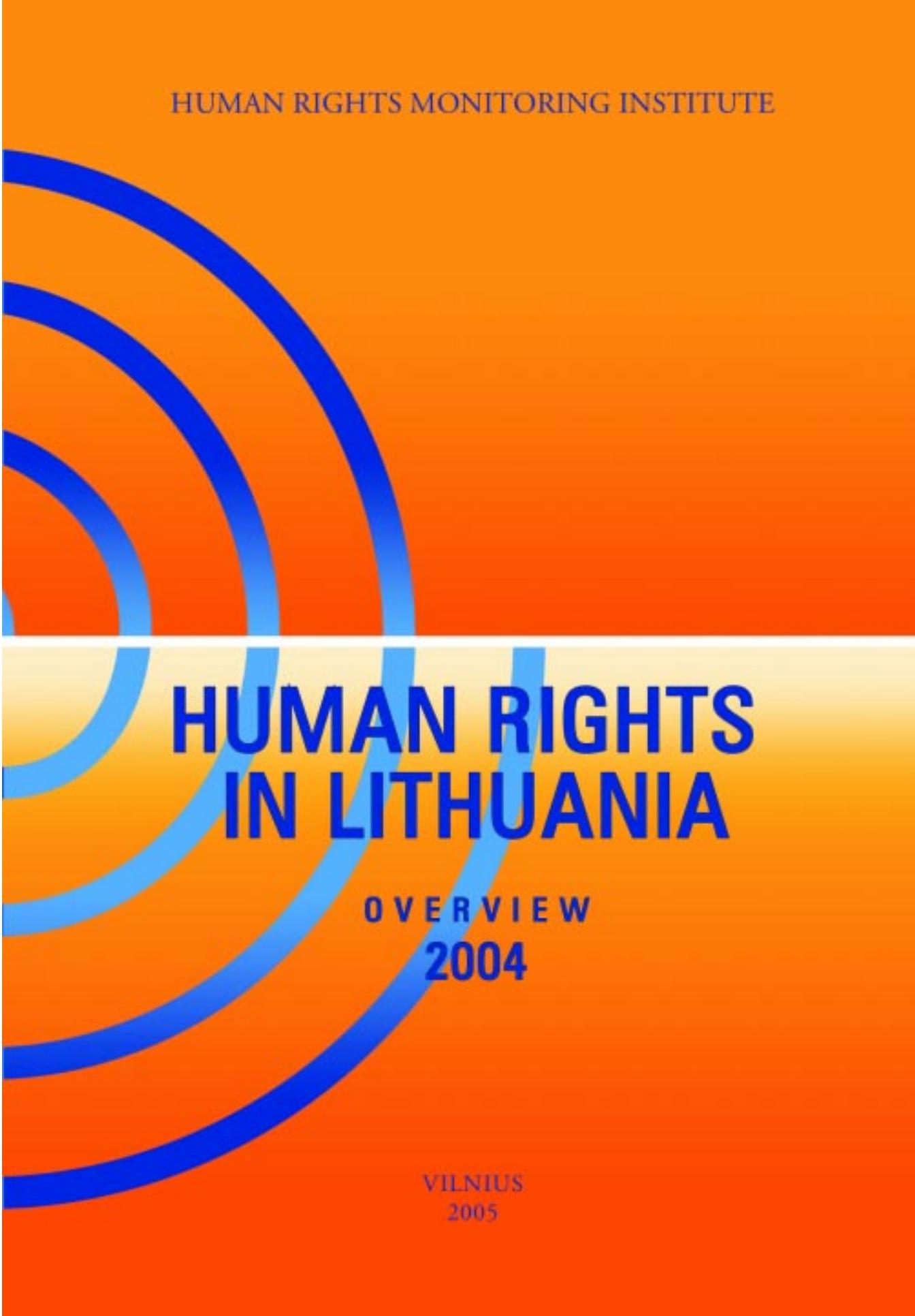


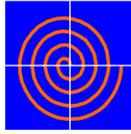
HUMAN RIGHTS MONITORING INSTITUTE



HUMAN RIGHTS IN LITHUANIA

OVERVIEW
2004

VILNIUS
2005



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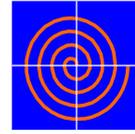
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TABLE OF CONTENTS

Foreword	4
Executive Summary	5
CHAPTERS	
1. Introduction	8
2. Right to Political Participation	9
3. Right to Respect for Private Life	15
4. Right to Fair Trial	22
5. Police and Human Rights	27
6. Rights of Crime Victims	32
7. Prisoners' Rights	34
8. Discrimination, Racism, Anti-Semitism and Other Forms of Intolerance	36
9. Rights of Vulnerable Social Groups	39
9.1. Patients	39
9.2. The Disabled	43
9.3. Children	46
9.4. Women	51
9.5. The Elderly	53



ABOUT HRMI

The Human Rights Monitoring Institute, founded in 2003, is an independent organisation representing the interests of civil society. It promotes the development of an open, democratic society in Lithuania through the consolidation of human rights principles. Strategic objectives include:

- Developing a mechanism for independent civil society scrutiny of government policies and practices regarding human rights;
- Raising public awareness of human rights violations, causes and consequences;
- Motivating government to bring about tangible improvements in legislation, programs and services intended to ensure and protect human dignity and human rights;
- Enhancing government accountability in human rights protection.

HRMI monitors state institutions on a daily basis and responds publicly to potential or committed human rights violations. The Institute carries out regular research, formulates opinions and recommendations, and presents findings to the public in an effort to facilitate necessary amendments to existing legal instruments, programmes and services. The Institute further initiates or assists in strategic litigation and prepares alternative reports to international human rights bodies.

FOREWORD

Further deepening and consolidation of democratic values cannot proceed without adequate protection of human rights. Lithuania has established the institutional infrastructure to govern within a democratic framework. In everyday practice, however, Lithuania experiences a growing gap between human rights declared and relevant protection applied.

The focus in human rights protection must necessarily remain on raising awareness of the causes and consequences of human rights violations and on holding government institutions accountable to the international principles to which the state commits. It would be premature, perhaps unwise, for the government and the international community to consider any post-communist state to have consolidated a culture of democracy and human rights within the span of 14 years. A paradigm shift in attitudes and behaviours may take decades longer.

Current dilemmas are best illustrated by the dubious ratification of the Treaty Establishing a Constitution for Europe, which deprived Lithuanians of the opportunity to express an opinion on a document of particular significance. The ratification process served only to demonstrate parliament's distrust of Lithuanian citizens. In 2004 a presidential crisis coupled with a corruption scandal involving

parliamentarians clearly disclosed a tendency to sacrifice human rights for political aims in Lithuania.

The operating motto among state power holders should be *Tua res agitus* (this is all about you). The purpose of the state is to serve its citizens, mind their security and welfare, and hear the voices of its citizens. To achieve that, it is imperative to strictly observe democratic values and standards embodied in the human rights catalogue.

Legitimising a democratic system of government and accession to the European Union cannot in itself safeguard human rights. Although stability of institutions guaranteeing human rights constitutes a key criterion of EU membership, 2004 demonstrated that EU entry did not prevent Lithuania from lowering human rights standards. There remains an urgent need for continuous, independent monitoring of government performance to secure the human rights protection due to citizens of any democratic state.

Without continuous monitoring, and the facilitation of public debate on key issues, misperceptions foster attitudes which sanction human rights violations—and embed the justification into the wider society. It is in this grey area that human rights protection encounters its greatest challenge.

In the spirit of promoting public scrutiny and government accountability in the area of human rights, the Human

Rights Monitoring Institute presents its second overview of human rights in Lithuania. The inaugural overview entered the public domain in June 2004 and has since provided a basis for numerous reports and discussions. The current publication reviews the quality of civil and political rights protection, identifies problems hindering proper implementation and suggests solutions to deal with these challenges.

We hope that the 2004 Overview will serve as an informational guide for further discussion and initiatives for research, policy formation, conferences and training courses.

The Overview relies on data gathered from ongoing monitoring, select HRMI projects, media monitoring and facts and opinions expressed by experts and ordinary citizens. HRMI encourages readers to provide feedback that would assist the Institute in identifying key issues and improving the overall quality of human rights monitoring—and protection—in Lithuania.

HRMI expresses its appreciation to the Open Society Institute and Open Society Fund – Lithuania for supporting this project.

Kęstutis Čilinskas
Chair of the Board

Henrikas Mickevičius
Executive Director

EXECUTIVE SUMMARY

A disarming illustration of the extent to which human rights are under-appreciated in Lithuania lies in the ratification process of the Treaty for the Constitution of Europe. In 2004 parliament failed to fully consider the consequences and outcomes of ratification. Moreover, a document of particular political and legal import remained out of public reach in the formal process of government approval. To date, no arguments have been given to explain why.

Problematic areas in the **right to political participation** include a lack of integrity in voting-by-mail and ambiguous voting procedures employed during numerous elections in 2004. There were reports of misdirecting the electorate in certain voting districts. Other concerns lingered: eligibility to participate in more than one election and restrictions on public access to information on municipal activities, decision-making processes and political party finance, especially transparency of political party funding. The year witnessed an attempt to limit political participation on the basis of origin.

Developments in 2004 proved that the majority of Lithuanians appear unaware of their **right to respect for private life** or identified it with difficulty. Violations of the right to privacy in electronic communications took on endemic proportions. The instances

in which private individuals potentially found themselves under secret surveillance were staggering. Citizens were increasingly requested to supply personal identification codes in interactions with government institutions and businesses. Mass media and law enforcement agencies frequently infringed on the right to private life.

Major issues emerging within the court system negatively affected the **right to fair trial**. Persistent questions that went unanswered included the insularity of the judicial branch, unprofessional management of the judicial system, inadequate accountability, a flawed budgetary process and shortcomings in court administration, including case assignment procedures. The potential of the *Law on Courts*, adopted in 2002, to create an independent, accountable, efficient and competent court system stayed unfulfilled. The gap between justice expected and justice delivered is growing. Obvious infringements on certain elements of the concept of fair trial could be found in violations of the presumption of innocence, improper evidence handling and practices that put in doubt judicial impartiality and equality of arms. Activities of court bailiffs continue to raise separate concerns.

Ineffective monitoring and supervision, along with an absence of public accountability, are central issues ob-

structing **human rights protection in police activities**. The gravest violations in this area involve the disproportionate use of violence, torture, inadequate conditions in detention facilities, defective transportation and guarded escort of detained individuals and ungrounded restrictions imposed on personal property.

A 2004 public opinion survey indicated that **rights of crime victims** remain the least developed. Without proper acknowledgement of victims under the law and adequate legal protection established, the issue cannot move forward. State institutions—and NGOs—failed to provide appropriate, timely assistance and support. Compensation for loss, especially moral damages, is largely unexplored.

Prisoners' rights endured constraints through a lack of transparency in relations between prisoners and supervisors. In 2004 labour rights were violated. Opportunities to maintain social ties with the outside world were limited. Reintegration of prisoners was approached unenthusiastically.

Discrimination and intolerance continued, even intensified, against Jews, homosexuals and Roma. Ethnic minorities were considered the group suffering the least discrimination, though this attitude revealed anomalies in overall percep-

tions—and responses—toward discriminated groups. Mass media and high-ranking public officials perpetuated stereotypical attitudes which appeared to sanction discrimination. Individuals of non-ethnic Lithuanian descent experienced obstacles in attaining dual citizenship for their children.

Healthcare institutions seem to violate **patients' rights** to the greatest extent. Mass media monitoring in 2004, coupled with an analysis of the legal framework for the healthcare sector, disclosed unethical conduct among physicians, managerial inefficiency in delivering health care services, an irrational approach to patients in need of continuous treatment and nursing, entrenched practice of coercion against psychiatric patients, restricted access to information, and violations of the right to respect for privacy.

Legal reforms in 2004 promised improvements for **the disabled**. Nevertheless, while Lithuania progressed significantly in human rights protection for the disabled, urgent issues remain: irrational policies and abusive practices toward the mentally disabled; and ineffectual mechanisms for the accountability and supervision of assigned caregiver institutions. The disabled cannot enjoy full use of public facilities and services. Impediments extend to access to information, education and vocational training, which prohibit the disabled from enjoying

full lives. Accessibility to the labour market is an imperative question. The processes for determining legal incapacity and assigning care¹ remain relevant concerns.

Lithuania has ratified all major international acts protecting **children's rights**. A system of children's rights protection institutions, i.e. the national network of Children's Rights Protection Services and Ombudsman for Protection of the Rights of the Child, have been established. That notwithstanding, the mechanisms to address and prevent violations require further development. This area of human rights is marked by an absence of a uniform children's rights policy, a lack of mutual co-operation between the institutions, an unclear division of responsibility among institutions active in this area and incidences of apathy and/or incompetence in the network of children's rights protection. Key problems include violence against children; the phenomenon of street children; failure to observe children's rights as victims, witnesses or minor offenders in criminal proceedings; failure to protect children's interests while in state custody; sexual abuse and violations of the right to adequate housing.

Protection of **women's rights** encountered constraints in the areas of *domestic violence* and *human trafficking*. Key areas for further consideration

include practical implications of a new legal measure allowing victims to be separated from perpetrators, disadvantages endured by women left without government support in the prosecution of cases related to minor injuries, and a failure to implement a programme intended to rehabilitate perpetrators. Human trafficking worsened in 2004. Victims faced debilitating social stigma; they become additionally victimised by law enforcement, media and the wider public.

The **elderly** confront discrimination most often in employment and services. In rural areas, isolated elderly individuals endured a growing number of brutal crimes.

¹ For a comprehensive discussion of the situation in 2003, see: *Human Rights in Lithuania: Overview*, HRMI, 2004. Available: www.hrmi.lt.

1. Introduction

Lithuania joined the European Union in 2004, thus acquiring much more favourable prerequisites for safeguarding human rights. However, in practice, membership by itself did not ensure human rights protection. On the contrary, the year 2004 brought forth a number of serious violations.

The greatest concerns relate to the apparent misuse of personal data collected from electronic surveillance, which is controlled by secret security agents. More disturbingly, information gathered in electronic wiretapping was publicised regularly, constituting an especially grave violation. Ungrounded and public usage of Personal Identification Codes has become standard. Cases involving violations of the presumption of innocence were widely covered by mass media where high ranking law enforcement officials publicly declared suspects' guilt before trial. Court bailiff practices are often unacceptable.

A number of issues concerning the implementation of the right to political participation emerged. This refers to protection of the right to free and fair elections. In 2004 vote purchasing, voter misdirection and defective voting procedures posed separate predicaments. Children continued to count among the most vulnerable so-

cial groups. Violence against children was widespread at home and at school, while the problem of street children was largely unaddressed. The scope of sexual abuse and exploitation appeared worrisome. Another vulnerable group, Roma, experienced clear violations. Anti-Semitic and homophobic attacks in the mass media failed to elicit appropriate repercussion from legal bodies.

This Overview discusses serious human rights violations as well as problematic areas in the implementation of major civil and political rights in 2004, which continued, to a large extent, in the first quarter of 2005. It covers the right to political participation, right to respect for private life, right to fair trial, human rights in police activities and discrimination, racism and other forms of intolerance. The most vulnerable groups – children, women, patients, the disabled, the elderly, crime victims and prisoners—are considered individually.

2. Right to Political Participation

The fundamental nature of democracy – government by the people – is realised through the human right to political participation. In 2005, however, the meaning and content of this right is not apparent. A 2004 HRMI survey determined that, in the public mind, the right to political participation was violated the least out of the spectrum of civil and political rights².

Perceptions of public officials and citizens play a role in safeguarding democratic principles. Lenient attitudes toward the right to political participation put distance between the government and its citizens, foster mutual distrust and marginalise citizens from the political process. Where both government and citizens fail to fully comprehend – and act upon – underlying principles of the right to political participation, its protection cannot be ensured.

The ratification process of the Treaty Establishing a Constitution for Europe underscores the current state of affairs. At the end of its term in 2004, the Lithuanian parliament hurriedly ratified the Treaty before its translation from English into Lithuanian was complete. The translation and editing of the document continued after the signing of the ratification. In other words, parliament voted for a document that was subsequently altered

after the voting procedure. More importantly, parliament by-passed essential elements such as public consultation in the consideration of potential outcomes to the ratification of the Treaty, the introduction of its content to the public and public participation in forming opinion on the importance of the Treaty.

A 2004 public opinion survey indicated that the majority of Lithuanians believed the Treaty should have been ratified and adopted by referendum³. Parliament ratified the Treaty hastily and without proper public consultation, to the minds of many Lithuanians, because it trusted neither the public (24.3 percent) nor newly-elected Members of Parliament (21.9 percent)⁴. Where Lithuanians disagreed about the process, one fact appeared resolute for the absolute majority (90 percent): the process and its outcome were marked by a shortage of information. Sixty-two percent would have liked to familiarise themselves thoroughly with the content of the Treaty; seven percent claimed to have read the document during the ratification process⁵.

In November 2004 the Human Rights Monitoring Institute issued a statement to the president of Lithuania, requesting him to abstain from signing the law ratifying the Treaty⁶. The statement indicated that, pursuant to the Lithuanian

Constitution, crucial issues concerning the state and the nation should be settled by a referendum. By ratifying the Treaty in a hurried manner, parliament failed both to ask public opinion and to take into account comments of non-governmental organisations. The Human Rights Monitoring Institute advised the president to refer to the Constitutional Court for its opinion on whether the Treaty and its ratification method did not violate the Lithuanian Constitution. The law was signed, nonetheless. By March 2005, official text of the Treaty had not been made publicly available in the Lithuanian language.

The Treaty ratification process illustrates the extent to which government representatives directly or indirectly sanction the notion that public consultation is rather an obstruction than an aid to the consolidation and further deepening of democratic principles.

Besides this fundamental constraint, the following violations of the right to political participation were observed in 2004: the government could not ensure integrity in voting by mail or transparency in voting procedures in certain districts, and there were reports of misdirecting the electorate in certain voting districts. Other problematic areas remained unresolved: eligibility to participate in

more than one election, restrictions on public access to information on the activities and decision-making of municipal institutions and funding of political party activities, primarily, its transparency. Moreover, 2004 was marked by an attempt to limit political participation on the basis of origin.

The year 2004 brought about an unprecedented number of elections – presidential, parliamentary and European Parliament – which highlighted policy and procedural issues to address in 2005.

The integrity of voting by mail could not be sufficiently protected in the 2004 elections. Participation was surprisingly high: 171,300 voters by mail (6.6 percent of the electorate) participated in the European Parliament elections and the first round of the presidential election; 220,800 voters by mail (8.32 percent) took part in the second round of the presidential election⁷. Some election observers attributed the increase to political parties allegedly buying votes in districts scattered across key constituencies⁸. Election observers in Lentvaris claimed that voters had been shown ballots already filled in with the names of candidates—and offered money for their vote⁹. Voters in the electoral district of

Voters had been shown ballots already filled in with the names of candidates and offered money for their vote.

Zarasai-Visaginas were “compensated” with a bottle of beer for their vote.¹⁰ In Vilnius, individuals suspected of violating electoral procedures were arrested near the central post office, where they had been given 20 LTL (less than 6)¹¹ for their vote¹². Police in the Raseiniai region arrested an individual carrying over 50 voter ballots¹³. Similar incidents were observed in other districts¹⁴. The chairman of parliament denounced attempts to buy votes, stating to mass media that “the elections are degenerating”¹⁵. A leading member of the Social Democrats party noted that a new tendency toward vote purchasing had emerged in the 2004 polling, which rendered voting by mail especially susceptible; therefore, voting by mail should be limited in future¹⁶.

The procedure of voting in electoral districts requires closer supervision. Observers noted that voters remain unsupervised when approaching the ballot box, giving no guarantee that ballots will actually reach the box. Voters can easily take ballots out of the polling station. Secrecy is unprotected. Voters are not required to fold the ballot or seal it in any way before casting their vote. A great many people can crowd into the voting room, where ballots are then filled in openly – not in a private viewing booth¹⁷.

Complaints concerning voter misdirection were received during the 2004 parliamentary election. Candidates of different political parties were observed instructing voters not to vote for candidates that had already been elected to parliament on party lists, arguing that they have been elected anyway¹⁸. The right of the candidate to run as an individual—apart from the party list—was, therefore, violated.

Voter misdirection, along with buying votes, gravely distorts citizens' right to free and fair elections. The electoral procedure should be improved to foresee measures preventing similar incidents in the future.

Candidates continue to run for more than one election at a time or take part in elections after being already chosen for another office. This practice misleads the electorate. If a candidate runs anew for a parliamentary seat while serving a term as mayor or member of the European Parliament, a voter cannot be certain in which office the candidate will decide to serve, if elected. Such decisions are often influenced by political considerations instead of willingness to represent the constituency. This possibility discredits the concept of free and fair elections and therefore should be abolished¹⁹.

There were cases of hidden, unfair politi-

Citizens had modest recourse against dubious decisions generated by municipal bodies.

cal advertising in 2004, as in previous years. Television audiences were misinformed and misdirected when TV channels broadcast reports on political party leadership without warning the audience that the reports were commissioned by political parties, despite laws barring hidden advertising. The state television broadcast agency showed hidden advertising as well, which points to the continued need for effectively-functioning implementation mechanisms for political advertising²⁰. Hidden advertising was neither noted nor accordingly evaluated by institutions inspecting journalists' ethics²¹.

The issues of political party finance and transparency in campaign funding remain unsettled. Politicians claim that more funds should be allocated from the state budget to political parties. In the absence of an adequate mechanism to ensure transparency of political campaign spending, an increase in state funding is not advised. A proposal to allocate funding from the state budget exclusively to parliamentary parties is equally flawed. If only major political parties receive state funding, smaller factions stand little chance of competing on equal ground. This encourages the formation of interest groups intent on monopolising political power, to the detriment of poorly-financed factions, and thus, the further development of participatory democracy.

In 2004 continued obstacles hindered citizens' attempts to learn more about the practices and procedures of municipal institutions and become involved in decision-making processes. Information accessible to the general public is often inadequate. Citizens had modest recourse against dubious decisions generated by municipal bodies. The Municipality of Šiauliai, for instance, re-distributed 2 million LTL (579,710) from social welfare funds to other budget lines, a portion of which was allocated to its own-undefined-needs²². In another case, Kaunas City Council members were paid the approximate equivalent of the average monthly salary (1,080 LTL, or 313) to compensate for stationery expenses – a high sum according to national standards²³.

Without public access to the content, process and procedures associated with public policy decisions, public officials—and the offices they represent—may directly or unwittingly abuse their position in furthering political party interests, instead of acting as a guide and problem-solver to negotiate interests and benefits on behalf of the constituents they represent. Legislators should initiate amendments to legal instruments regulating activities of municipal institutions in order to emphasise the importance and role of the community in the decision-making process²⁴.

Candidates continue to run for more than one election at a time or take part in elections after being already chosen for another office.

The principle of equality in political participation is another concern. In 2004 a group of parliamentarians registered a draft amend-

ment of the *Law on Political Parties*, proposing to adopt a provision in which leaders of political parties must be Lithuanian-born nationals²⁵. In terms of human rights, the provision is manifestly ungrounded and abusive; it distinguishes a separate class of nationals and unreasonably restricts their right to political participation. The potential discrimination emanating from this provision cannot be under-stated.

² About 55 percent of survey respondents rated protection of the right to political participation among the least violated, compared to 28 percent who regarded the right to respect for private life to be the least violated. About 25 percent named the right to protection of property, 18 percent named the right to personal security, and 13 percent considered the right to fair trial the least violated. See: “How Does the Community Rate the Situation of Human Rights in Lithuania?”, Human Rights Monitoring Institute (HRMI), 2004. Available: www.hrmi.lt.

³ Thirty-six respondents supported ratification by referendum; 27 percent supported the process chosen by parliament. See: “The Public Believes that a Referendum was Necessary for the EU Constitution”. *ELTA* News Agency, 03 December 2004. Available: www.delfi.lt.

⁴ Elections in September 2004 brought to parliament politicians from the newly-formed Labour party as well as a number of fresh faces from established political parties. See: “How Does the Community Rate the Situation of Human Rights in Lithuania?” Human Rights Monitoring Institute (HRMI), 2004.

⁵ “The Public Believes that a Referendum was Necessary for the EU Constitution”. *ELTA*, 03 December 2004. Available: www.delfi.lt.

⁶ “Appeal to the President of Lithuania on the Ratification of the Treaty Establishing a Constitution for Europe”, HRMI, 18 November 2004. Available: www.hrmi.lt.

⁷ National Elections Commission data. Available: www.vrk.lt/pgl_data.htm.

⁸ “Votes by Mail are Marketable among the Rich Purchasers”, *ELTA*, 07 October 2004. Available: www.delfi.lt.

⁹ “Suspicious Fall on the Labour Party for Bribing the Voters”, *Delfi* Internet portal, 05 October 2004. Available: www.delfi.lt.

¹⁰ “Vote-Purchasing Reported on the First Day of Election”, *ELTA*, 19 October 2004. Available: www.delfi.lt.

¹¹ 1 Euro () = 3.45 Lithuanian Litas (LTL), according to the Lithuanian Central Bank.

¹² “Persons Suspected of Buying and Selling Votes Under Arrest”, *ELTA*, 08 October 2004. Available: www.delfi.lt.

¹³ “The Flow of Reports on Vote Purchasing and Promotion Increases”, *ELTA*, BNS News Agency, 21 October 2004. Available: www.delfi.lt.

¹⁴ Aleknaitė, Kristina. “Central Right Wing is going to Prevent Vote Purchasing”, *Delfi*, 18 October 2004. Available: www.delfi.lt.

¹⁵ “Elections are Degenerating in Lithuania, Claims Paulauskas”, *BNS* News Agency, 14 October 2004. Available: www.delfi.lt.

¹⁶ “Restrictions on Voting by Mail are Planned”, *BNS*, 25 October 2004. Available: www.delfi.lt.

¹⁷ Babilius, Sigitas. “Counterfeited Election”, *Delfi*, 29 June 2004. Available: www.delfi.lt.

¹⁸ “Misguidance of the Electorate in the Struggle for the Seat in Parliament”, LRTV Lithuanian Television News Service, 19 October 2004. Available: www.delfi.lt.

¹⁹ For further details, see: “Right to Political Participation” in *Human Rights in Lithuania: Overview*, HRMI, Vilnius, 2004, p.11. Available: www.hrmi.lt.

²⁰ See: “Freedom of Media” in *Human Rights in Lithuania: Overview*, HRMI, Vilnius, 2004, pp.13-14. Available: www.hrmi.lt.

²¹ Aleknaitė, Kristina. “Political Advertising: I am Back Missed or Not”, *Delfi*, 06 September 2004. Available: www.delfi.lt.

²² “Municipality Gets a Car for Social Allowances”, *Lithuania News (Lietuvos • inios) Daily*, 03 December 2004.

²³ Andriuskevičius, Arūnas. “Kaunas Politicians Support Themselves Lavishly”, *Kauno Diena* Daily, 21 February 2005.

3. Right to Respect for Private Life

Developments in 2004 demonstrated that safeguarding the right to respect for private life²⁶ is an increasingly relevant concern. In a year in which violations of the right to private life abounded, Lithuanians remained unaware of this right or identified it with difficulty. This observation was supported independently by Alvaro Gil Robles, Commissioner for Human Rights of the Council of Europe, in a 2004 report on Lithuania and by the scarcity of privacy-related cases before domestic courts as well as the European Court of Human Rights. Violations of privacy in electronic communications were on the rise, along with the number of instances in which citizens were requested to provide sensitive personal data. Mass media and law enforcement agencies frequently infringed on the right to private life.

In 2004 the media²⁷ alleged that the State Security Department (SSD) had unrestricted access to tap mobile telephone conversations. Major telecommunications company representatives confirmed that secret surveillance operatives were provided with the technical infrastructure to monitor telephone calls. The companies could not control whether operatives restricted surveillance to those subscribers specified by

Media alleged that the State Security Department (SSD) had unrestricted access to tap mobile telephone conversations.

court order²⁸. In fact, there have been no detailed procedures to ensure that operatives place under surveillance only those subscribers named in a court order, and subjects have received no further guarantee that the surveillance period has been confined to the time set by the courts²⁹.

Other aspects in electronic communication monitoring procedures carried out by law enforcement agencies raised concerns. The *Law on Electronic Communications*, adopted in April 2004, obliged electronic communications service providers to enable monitoring of transmitted content by law enforcement agencies. Put differently, providers must allow access to the entire network resources.

To counter-balance potential abuse among surveillance operatives and pre-trial investigators, control over technical commands used to initiate or terminate electronic wiretapping has been given to an authorised government institution on the presumption that doing so would prevent illicit modifications to the commands allowing access to the network. For over eight months, no control measures were implemented until the State Security Department became authorised to store the access commands in December 2004. A number of

under-statutory regulations await adoption.

Among key concerns, two issues require immediate attention. Firstly, the SSD essentially controls itself, while conducting surveillance and pre-trial investigations. This kind of practice is faulty. The government should designate one institution to monitor electronic data transmissions and another to store evidence to restrict incidences in which evidence may be altered while in storage. Additionally, or alternatively, equipment used to record commands or authorisations concerning electronic data transmission monitoring could be installed in a third institution, such as the office of the Prosecutor-General. Secondly, there are no rules on how the SSD ensures that other secret surveillance and pre-trial investigation agencies can access networks to monitor electronic communications. The absence of clear procedures creates conditions for abuse.

Prosecutorial supervision over the legality of secret surveillance is weak. The Office of the Prosecutor-General admitted that it was not in a position to ensure that surveillance operatives monitor electronic communications in accordance with the law. The system should be changed, according to the Prosecutor-General³⁰.

Current practices for granting permission to engage in monitoring of elec-

tronic communications are inefficient as well. Judges, or in extraordinary cases public prosecutors, satisfy the majority of requests to sanction secret surveillance activities. Judges and prosecutors do so mainly due to the fact that they do not receive full and complete information. The *Law on Operational Activities* should entitle judges and public prosecutors to receive full secret surveillance data, if required. Draft amendments to the *Law on Operational Activities*, submitted to parliament at the end of 2004, provide the option for those taking decisions on sanctions to have access to essential facts. Adoption of this law should be facilitated swiftly.

In 2003 a parliamentary committee was established to control secret surveillance activities. The newly-elected parliament formed the committee in March 2005. Its activities should be co-ordinated with the supervision of secret surveillance operations under the auspices of a special institution established independently of political influence³¹. The committee is entitled to investigate grave violations. A complementary special institution could investigate other complaints, as well as render legal evaluation of past electronic communications surveillance. The institution would submit regular reports on, among other things, the scope of electronic communication monitoring, the alleged crimes which prompted surveillance measures and the period of surveillance measures conducted in connec-

tion to alleged criminal wrongdoing. The new draft *Law on Operational Activities* allows for the special institution described here. Alternatively, certain supervision functions, conceivably, could be transferred to the State Data Protection Inspectorate³².

Among the most flagrant abuses of human rights in 2004 was the publication or broadcast of private telephone calls recorded during secret surveillance operations. Lithuanian media initiated this disturbing practice during the presidential crisis. Members of Parliament suspected of corruption later encountered transcriptions of their conversations with private individuals on television, radio and in public discussions. The Deputy Prosecutor-General and the head of Vilnius Department of Special Investigation Services, moreover, encouraged the media to publicise private telephone conversations. Abuses of this kind are expected to decline as court precedents are established.

Confidential information related to private life can be exchanged exclusively among law enforcement agencies and used in criminal prosecution, according to the *Law on Operational Activities*. Law enforcement agencies should promptly and effectively respond to data leaks by initiating crimi-

Among the most flagrant abuses of human rights in 2004 was the publication or broadcast of private telephone calls recorded during secret surveillance operations.

nal proceedings. Violators should be held responsible in accordance with the law. Heads of both secret surveillance bodies and pre-trial institu-

tions should bear responsibility for these violations when their operatives fail to secure relevant information. Institutions monitoring the media's compliance with ethical standards should evaluate the situation and take measures to strictly enforce the principle that only those private telephone conversations made public in an open court session, and directly related to public interest, may be further disseminated by mass media.

The possibility to make public the content of personal electronic communication during pre-trial procedures also raises doubts. Article 177 of the *Code on Criminal Procedure* allows for data collected in a pre-trial investigation, including the content of electronic communications, to be made public before a court hearing takes place, provided that a public prosecutor issues a relevant permit. The necessity and rationale of this legal provision is doubtful since it remains unclear in what cases and for what purposes data can be made public. Current practices indicate that pre-trial data has been used for political or other purposes unrelated to criminal investigation proceedings. The provision allowing for public ac-

cessibility to pre-trial data should be either removed or clearly elaborated to provide for specific cases under restricted circumstances in which a public prosecutor may allow personal data to enter the public domain.

By the end of 2004, a major telecommunications provider, Lietuvos Telekomas, became embroiled in a scandal over the alleged illegal misuse of the ACB/ITSS equipment intended to prevent fraud. The Prosecutor-General initiated a pre-trial investigation into the storage and deployment of the equipment but terminated the inquiry soon after it began.

Meanwhile, government officials, including the head of the SSD, picked up on growing reports that the equipment had been, and perhaps still was being, used for the illegal collection of data on private individuals. Media reports alleged that the electronic eavesdropping included the gathering and storage of passwords for bank transactions, alarm codes and other sensitive security information transmitted in the format of Dual Tone Multiple Frequency (DTMF) signals³³. Banks operating in Lithuania discovered, much to their collective alarm, that the services, in fact, were insecure. About 71 percent of Lithuanians believed the equipment was used

Government officials picked up on growing reports that equipment had been, and perhaps still was being, used for the illegal collection of data on private individuals.

for tapping telephone lines, revealed a public opinion survey conducted at the height of the scandal³⁴.

It is not known whether other telecommunications operators use similar equipment explicitly to prevent fraud within the electronic communications network. Issues surrounding the use, storage and deployment of ACB/ITSS equipment are largely unregulated. State institutions should set requirements for the certification and service of such equipment in routine commercial operations.

Service providers routinely fail to declare complete information on personal data management, especially data concerning connection times, duration of the communication or identification of the location. Both the *Law on Electronic Communications* and the *Law on Legal Protection of Personal Data* require that electronic communications service providers declare intentions to collect and manage personal data. The state Data Protection Inspectorate is obliged to ensure control over accidental or illegal erasure, modification or disclosure. The Inspectorate appears unable, for the time being, to pay sufficient attention to this issue. The authority of the Inspectorate should be made explicit in legal acts and

institutional policy and procedures. Beyond this, the Inspectorate should assume a pro-active stance in imposing stricter measures to safeguard personal privacy in the management and operation of electronic communications data security. Moreover, liability should be increased and enforced for personal privacy violations in electronic communications data collection, management and storage³⁵.

Internet privacy protection posed serious threats. Unsolicited e-mails marketing various products or services have contributed to a growing market for illicit services. With the aid of cookies³⁶, solicitors gather information on personal preferences, activities and data submitted by Internet users while they are browsing online³⁷.

Electronic communications providers should develop measures against unwanted commercial mail (including spam) and apply those measures in business codes of conduct³⁸. Users, furthermore, should consider potential threats to privacy before disclosing personal data or installing particular software. The State Data Protection Inspectorate does not monitor illegal personal data collected from the Internet. It is crucial that international entities active in this global phenomenon co-operate with do-

mestic service providers as well as the state and public institutions supervising personal data protection.

Staff working for electronic communications providers should be monitored, in certain cases. HRMI is aware of cases where staff members illegally monitored correspondence between private individuals. Detailed regulations should be provided by law and in internal company policy to prevent unauthorized persons from gaining access to the content of users' e-mail.

Business software sales boomed in 2004. With the aid of certain software, employers could monitor employees' computer, e-mail or Internet activities at any given point. The issue touches upon the delicate balance between an employee's right to privacy and an employer's interest in protecting assets, as well as productivity.

The European Court of Human Rights does not make a distinction that would provide for restricting the right to privacy in the work environment. For instance, a work telephone assigned to a particular employee may be considered part of his or her private sphere. The Court gives no arguments against extending its interpretation to other com-

Information gathered in electronic wiretapping was publicised regularly, constituting an especially grave violation.

munication devices in the workplace. Where employers develop independently verifiable reasons for restricting privacy in the workplace, specific criteria and outcomes should be identified. In other words, employers should clearly state the conditions under which employees may browse the Internet and exchange personal communications on company time. Where employers monitor electronic communications, employees should be sufficiently warned in advance of the circumstances under which the monitoring will take place and recorded information used³⁹.

Video surveillance is a growing industry. Companies, organisations and private individuals increasingly install surveillance systems in public places to monitor private individuals without their knowledge or consent. Web cameras were set up at the Palanga beach in 2004 to record antics of vacationers, for example. Legal protection of data privacy should be extended to audio and video data management wherever an individual can be identified directly or indirectly. Adequate warnings of audio or video recordings in public places should be issued in advance and consequences should be enforced stringently. At minimum,

Companies, organisations and private individuals increasingly install surveillance systems in public places to monitor private individuals without their knowledge or consent.

Every third legal instrument requiring disclosure of Personal Identification Codes fails to observe the principle of proportionality.

the fact and purpose of the surveillance should be made clear⁴⁰. The State Data Protection Inspectorate has yet to focus on the individual consequences of public video surveillance.

An alarming number of public and private entities requested a disproportionate amount of personal data to authenticate identity in 2004. International standards under the rule of “disclosure within the limits of authentication” determine that the minimal amount of private personal data should be requested to identify and verify personal identity.

In Lithuania, an HRMI investigation revealed that every third legal instrument requiring disclosure of Personal Identification Codes fails to observe the principle of proportionality. This failure to fully consider the potential threats to personal data protection has resulted in the popular and widespread use of Personal Identification Codes to the extent that they could be found on employee name tags in 2004. At the same time, citizens who refused to provide personal identifiers halted business transactions or agreements in 2004, where service providers declined services to clients who re-

fused to disclose Personal Identification Codes. Service providers have no grounds to demand disclosure or refuse to conclude a contract in this case.

An increasingly relevant, but relatively unknown, problem is emerging. Personal identify theft resulting from the widespread use, or misuse, of personal data should be dealt with before the situation takes on serious proportions. Data managers and private individuals should be fully informed of the purpose of identification numbers and the requirements for its protection⁴¹.

²⁴ For details, see: “Right to Political Participation” in *Human Rights in Lithuania; Overview*, HRMI, 2004; pp.11-12. Available: www.hrmi.lt.

²⁵ *ELTA*, 01 July 2004. Available: www.delfi.lt.

²⁶ Hereinafter, the right to private life.

²⁷ See: Lithuania News (*Lietuvos žinios*), 20 September 2004.

²⁸ *ELTA*, 07 September 2004. Available: www.delfi.lt.

²⁹ See: “Restriction of Privacy in Electronic Communications for the Purposes of Crime Investigation and Prevention: Issues and Potential Solutions”, HRMI, 2004. Available: www.hrmi.lt.

³⁰ *ELTA*, 11 August 2004.

³¹ For more details, see: “The Right to Respect for Private Life” in *Human Rights in Lithuania: Overview*, HRMI, Vilnius, 2004; p.17. Available: www.hrmi.lt.

³² Issues related to restrictions of privacy in electronic communications are discussed in more detail in “Restrictions on Privacy in the Electronic Communications for the Purposes of Crime Investigation and Prevention: Issues and Potential Solutions”, HRMI, 2005. Available: www.hrmi.lt.

³³ DTMF technology enables customers to conduct more than one transmission at a time for dialing, ordering or managing a service.

³⁴ The public opinion survey, conducted by the Spinter Tyrimai Market and Public Opinion Research Company, was commissioned by the *Delfi* Internet portal. Results were published on 15 December 2004.

³⁵ The *Code of Administrative Offences* prescribes a fine of up to LTL 1,000 (€ 290) for the violation of a set requirement in the management of personal data and up to LTL 2,000 (€ 580) for repeated offences.

³⁶ Cookies facilitate browsing when the user accesses the same website repeatedly. However, cookies can collect private data from information entered by the user on a particular website, a questionnaire filled in by the user or any other sensitive data entered in an electronic format.

³⁷ So-called *click stream data* may be collected when the user’s browser sends data identifying the origin and destination of information entered with a click of the mouse.

³⁸ Solicitors usually send e-mails to known addresses. Presumably, personal data stored in the address database, which may indicate other private details, is managed unlawfully.

³⁹ “Monitoring Electronic Communication in the Workplace”, Policy Guidelines, WP 55; Data Protection Group. Available: www.ada.lt.

⁴⁰ “Opinion of the Data Protection Group on Personal Data Management Employing Video Surveillance Systems” Data Protection Group; Document No. WP 89. Available: www.ada.lt.

⁴¹ See more in “The Right to Respect for Private Life: Use of Personal Identification Numbers in Lithuania”, HRMI, 2004. Available: www.hrmi.lt.

4. Right to Fair Trial

The right to a fair trial is among the core rights safeguarded by a democratic state, which, in turn, guarantees the implementation of other human rights. Lithuanians perceived this right to be among the most violated in 2004. The right to a fair trial is seen as more often violated than the right to personal security, the right to property protection and other civil and political rights. Nearly one-third of Lithuanians considered courts to be among the institutions that violated human rights to the greatest extent⁴². Court bailiffs fair even worse in the public eye. Nearly half of Lithuanians believed that court bailiffs infringe on their rights the most⁴³. As a result, trust in courts is worryingly low⁴⁴.

Major issues emerging within the system involve the insularity of the judicial branch, unprofessional management of the judicial system, inadequate accountability, flawed budgetary process and shortcomings in court administration, including case assignment procedures⁴⁵. The potential of the *Law on Courts*, adopted in 2002, to create an independent, accountable, efficient and competent court system remained unfulfilled. The gap between justice perceived and delivered is growing. Lithuanians witnessed obvious infringements on certain elements of the concept of a fair

The gap between justice perceived and delivered is growing.

trial: violations of the presumption of innocence, improper evidence handling and practices that put in doubt judicial impartiality and equality of arms. The activities of court bailiffs continue to raise separate concerns.

Judges continue to interpret and apply legal acts uncritically, relying disproportionately on under statutory regulations developed by civil servants, conceivably for the protection of their own rather than public interests. Judges are reluctant to follow provisions of the Constitution and treaties ratified by parliament, including the *Convention for the Protection of Human Rights and Fundamental Freedoms*, though these legal acts are, indeed, directly applicable. Judicial education curricula and summaries of judicial practice and guidelines by higher courts should encourage judges to apply legal regulations that reflect shared human values.

Judges often fail to adhere to procedural trial rules or observe them inadequately. In 2004 a study on *Procedural Justice in the Lithuanian Criminal Courts and the Application of Alternative Models* revealed that none of the monitored judges met all procedural requirements and none fulfilled procedural requirements ad-

An individual was convicted and subsequently served three and a half years in prison for a crime he did not commit.

Judges continue to interpret and apply legal acts uncritically.

equately⁴⁶. A recurring instance involved a participant informed of his/her rights, as required by

law, but the notification was performed hastily and without clarifying whether the person has understood his/her procedural rights properly⁴⁷. Such practice instigates dissatisfaction among trial participants. Additionally, trust in courts and their abilities to defend human rights were adversely affected by lengthy proceedings, formalistic attitudes and a perceived— or actual—lack of sympathy from judges and court personnel⁴⁸.

Irregularities allowed during trials, especially improper evaluation of evidence, may lead to serious violations of the right to a fair trial. In criminal cases, evidence collected during the pre-trial investigation has been given too much import, while the examination of evidence presented during trial has not received enough attention.

The most striking example in 2004 involved an individual who was convicted and subsequently served three and a half years in prison for a crime he did not commit. The Marijampolė resident was charged with the robbery and murder of an Estonian citizen and sentenced to prison by the Kaunas District Court⁴⁹. Evidence alluding to his

innocence had been given insufficient attention during the trial. After his release from prison, law enforcement agencies discovered that the crime had been committed by a group of individuals unrelated to the convicted man.

Every third Lithuanian believed that an institution other than the courts decided individual guilt

and the *Law on Administrative Procedures*, which propose the mandatory stenography of trial proceedings and an audio record of the trial. These amendments should be discussed and adopted⁵¹.

proceedings and an audio record of the trial. These amendments should be discussed and adopted⁵¹.

Current criminal prosecution policy relies heavily on evidence obtained through secret electronic surveillance. Such evidence is often unreliable and should be supported by dependable direct evidence. Regardless, evidence collected through secret electronic surveillance cannot be the main or sole proof of guilt⁵⁰.

The year 2004 witnessed numerous violations of the presumption of innocence. Research showed that every third Lithuanian believed that an institution other than the courts decided individual guilt⁵². This has been influenced by the actions of law enforcement agencies in publicising evidence in criminal cases and by the public statements of high-level prosecutors on individual culpability before trials began.

It is crucial for courts to record the process of evidence examination in the trial minutes to ensure impartiality and proper evaluation. Recording trial proceedings is presently fragmented and, as a result, fails to reflect vital circumstances. Without an accurate and detailed recording of the trial proceedings in progress, different interpretations later emerge on how the court examined evidence and arrived at its conclusions.

The most disarming example came in a declaration by the deputy Prosecutor-General, quoted in a media interview, that the termination of a criminal investigation did not mean that a suspect was innocent⁵³. Judges can hardly be expected to maintain an exacting standard of impartiality in a climate where individuals are considered guilty until proven innocent. Moreover, since public disclosure discredits evidence, public prosecutors should not possess the authority to

In 2004 parliament registered draft amendments to the *Law on Courts*, the *Code of Civil Procedure*, the *Code of Criminal Procedure*

the deputy Prosecutor-General: "the termination of a criminal investigation did not mean that a suspect was innocent."

make evidence public or, where they do, this authority should be limited by clear criteria.

An equally disconcerting practice emerged where law enforcement agencies publicly suspected criminal activities while alleged suspects had no means to defend themselves⁵⁴. In the full presence of the media, officers of the Special Investigation Service conducted seizures in several political party headquarters and the same day publicly spoke about the fact that five Members of Parliament were suspected of corruption. The MPs were, in fact, charged with a criminal offence, although no formal charges were filed. The MPs became suspects without an opportunity to defend themselves or use other rights accessible to formally-charged suspects.

The principle of impartiality mandates that judges remain unbiased arbiters in the administration of justice. In 2004, however, this principle was threatened by an incident in which a judge acted in the capacity of a law enforcement agent. The media reported a case involving a judge in Klaipėda⁵⁵ who secretly co-operated with law enforcement agents to entrap a criminal suspect. Though collaboration with law enforcement institutions has been encouraged, within the limits of the law, it remains doubtful whether judges can preserve their impartiality in doing so.

Law enforcement agencies publicly suspected criminal activities while alleged suspects had no means to defend themselves.

Questionable tactics and disproportionately large fees charged for bailiffs' services has inspired controversy.

Judicial proceedings at the Constitutional Court consistently infringe upon the principles of equality of arms and procedural adversity due to the prohibition that private individuals cannot present arguments. When common courts request a ruling on the constitutionality of certain legal acts, the decision of the Constitutional Court often has a decisive effect on the final outcome of the case. In cases involving private party complaints against the government, however, private individuals have no voice in the proceedings. Yet the government position is presented fully.

The acts of court bailiffs continued to threaten the right to a fair trial in 2004. Mass media regularly uncovered instances where bailiffs abused the authority entrusted to them in the recovery of debts and fines. Over the course of the year, the Ministry of Justice responded to growing reports of abuse by conducting 15 inspections of bailiff offices; the Minister of Justice initiated five measures, while the Chamber of Bailiffs brought about one disciplinary proceeding⁵⁶.

Court bailiffs operate as a private institution assigned to perform a public function: the collection of

adjudicated debts and fines. Questionable tactics and disproportionately large fees charged for their services have inspired controversy.

In one case, a court released a perpetrator, a minor, from serving his sentence on the grounds that he had already fulfilled his obligations. Bailiffs, however, initiated measures to sell an apartment owned by the minor's mother that was seized previously to recover the debt, even though the mother had already compensated for the damage caused by her son⁵⁷.

In another case, a bailiff demanded LTL 200 (€ 58) from a person who had paid the fine four years before. When it was proved that the individual had paid the fine, the bailiff requested fees for the service⁵⁸.

Disproportionate charges for their services have continued to pose challenges. A fine of LTL 250 (€ 72) may eventually cost a debtor an additional LTL 200 in bailiffs' fees and LTL 60 in administrative expenses for total of LTL 510 (€ 148).

Recent changes introduced by the Minister of Justice to reduce exorbitant fees charged for the collection service have done little to curb the problem. Currently, the main document governing bailiffs' activities in Lithuania are under statutory regulations, issued by the Minister of Justice. These regulations conflict with laws adopted by parliament⁵⁹. Further

changes are warranted in legal regulations and ethical standards regarding court bailiff activities.

⁴² "How Does the Community Rate the Situation of Human Rights in Lithuania?" public opinion survey, HRMI, 2004. About 42 percent of respondents claimed that the right to a fair trial was the most violated human right; over 12 percent believed this right was the least violated. Available: www.hrmi.lt

⁴³ Ibid. About 48 percent of respondents believed that the bailiffs violate human rights the most.

⁴⁴ For some time the rate of trust in courts has verged on 20 percent. See: <http://www.litlex.lt/portal/start.asp?act=reng&str=10059&orgid>.

⁴⁵ "The Court System and the Right to Fair Trial" in *Human Rights in Lithuania: Overview*, HRMI, 2004; pp.19-20. Available: www.hrmi.lt.

⁴⁶ The scale of compliance with procedural rules varied from 7.6 to 59.5 percent in monitored cases. See: Valickas, Gintautas and Viktoras Justickis. "Procedural Justice in Lithuanian Criminal Courts and the Application of Alternative Models", Open Society Fund – Lithuania and the Department of General Psychology at Vilnius University, 2004. Available: <http://politika.osf.lt/kiti/dokumentai/ProcedurinisTeisingumas.pdf>

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Lithuania Morning (*Lietuvos Rytas*) Daily, 09 December 2004. No. 286.

⁵⁰ “The Human Rights Monitoring Institute is Going to Monitor Whether Human Rights are Observed in Political Crime Cases”, HRMI press release. 12 July 2004. Available: www.hrmi.lt

⁵¹ *ELTA*, 16 September 2004.

⁵² A public opinion survey conducted by HRMI in 2004 indicated that 16 percent of Lithuanians assumed that guilt has been decided by the police or public prosecutor’s office; nearly the same percentage thought that media determined guilt.

⁵³ “Investigation on Former MPs Suspected of Bribing Has Been Terminated”. *BNS, ELTA News Agencies*. 21 October 2004. Available: www.delfi.lt.

⁵⁴ “The Human Rights Monitoring Institute is Going to Monitor Whether Human Rights are Observed in Political Criminal Cases”. HRMI press release. 12 July 2004.

⁵⁵ *Evening Express (Vakaru Ekspresas)* Daily. 24 September 2004.

⁵⁶ “Ministry of Justice is to Check Bailiff Offices”. *ELTA News Agency*. 11 January 2005.

⁵⁷ *Business News (Verslo žinios)* daily. 08 June 2004.

⁵⁸ *Klaipėda Daily*. 16 April 2004.

⁵⁹ See: “The Set Procedure for Debt Recovery is to be Adhered to While the Legal Regulations Should be Improved”, public statement by HRMI and the Centre for Legal Projects and Research. Available: www.hrmi.lt.

5. Police and Human Rights

Lithuanians expect adequate assistance from the police⁶⁰; nevertheless, they distrust police officers and doubt their ability to protect and serve them⁶¹.

Among the worst human rights violations in 2004 were reports of the disproportionate use of force and serious injuries, even torture, during the course of police operations. In addition, individuals faced inadequate conditions in detention facilities, endangerment during transport and unfounded restrictions on the right to enjoy personal property. Human rights violations have been, to a significant extent, fostered by ineffective supervision and control over police operations. Public accountability has remained a serious concern.

Police officers may proceed with the use of firearms, special measures and martial actions only where the actual grounds justify the means and only to the extent determined by the circumstances of the intervention. In 2004 cases emerged where police officers injured suspects without clear cause. In Kaunas, the media reported on a case where a young man restrained by police officers in a brawl of football (soccer) fans was

Police officers injured suspects without clear cause.

found dead the next day from injuries that medical experts admitted were largely the result of head trauma⁶². In another case, a suspect in Klaipėda was apprehended while sitting, unarmed, in a car. The suspect required resuscitation and complicated surgery to remove a blood clot from the brain following the apprehension⁶³.

Media investigations uncovered incidences of torture and, subsequently, touched upon an apparent misperception among police officers about the scope and content of acts of torture. Two cases described here point to attitudes in the wider system which may obstruct human rights protection.

Media in Šiauliai reported on the case of a suspect who had been cuffed and beaten on the soles of his feet with a wooden baton. After a preliminary investigation, the public prosecutor's office refused to initiate criminal proceedings against the policemen because prosecutors did not detect any criminal element in the policemen's actions⁶⁴.

The Parliamentary Ombudsman Office investigated a case concerning the tor-

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Police misconduct extends to incidences in which the transportation of prisoners may have been fatally hazardous.

ture of a suspect transported by police officers from the Jonava detention facility to Kaunas for interrogation. On the way, the officers

stopped in the forest. Under the influence of alcohol, the policemen began to kick the suspect on the soles of his feet and assault his head and body. An investigation verified and supported the suspect's complaint of torture⁶⁵.

Police misconduct extends to other incidences in which the transportation of prisoners may have been fatally hazardous to prisoners. A suspect in obvious poor health was transported under circumstances that may have contributed to his death in 2004. The suspect worsened while being transported from the intensive care unit of the Panevėžys Hospital to the Lukiškės Hospital in Vilnius. Attempts to resuscitate him upon arrival failed; the suspect died. The Department of Prisons confirmed that this person should not have been transported, stating that Panevėžys police should have safeguarded him in the local hospital instead⁶⁶. In general, the conditions of prisoners' transport by convoy remained urgent, unchanged from the previous year⁶⁷.

Conditions for the custody of appre-

hended suspects continued to be critical, despite a government programme adopted to solve the problem⁶⁸. In February 2004, representatives of the European Committee for the Prevention of Torture emphasised that detention areas in police stations raise the gravest concern. Most complaints concern inadequate conditions, along with a shortage of personal hygiene products (e.g., soap, toilet paper)⁶⁹. Though the government purchased LTL 80,000 (€ 23,188) in new mattresses, sheets and towels in 2004, these products did not reach all of the inmates for whom they were intended⁷⁰.

An analysis of complaints received by the Parliamentary Ombudsman Office indicated that detention facilities in major Lithuanian cities, serving the highest number of inmates, have failed to observe legal requirements to provide each individual with five square metres of space and separate beds⁷¹. For example, 133 inmates shared 33 beds at the detention facility in Klaipėda, averaging roughly four detainees per bed. In regional police stations, the lack of specialised rooms for interrogation or visits with relatives has been urgent. Detainees has been denied walking privileges or other light exercise, in some cases⁷².

Police procedures regarding property disposal require further examination.

Detention areas in police stations raise the gravest concern.

In Pasvalys, for example, police took into custody cars of individuals involved in road accidents, thereby restricting owners' rights to enjoy their property. Moreover, police have demanded that owners pay for guarded storage in amounts that have exceeded the value of the car, in some cases. Cases of property loss have been reported. Commercial television station TV3 reported on a case whereby an investigator of the Kazlų Rūda police district allegedly failed to secure USD 8,000⁷³ (€ 9,950) and other personal items taken from individuals killed in road accidents.

Loopholes in the system further enable perpetrators to snare innocent victims in the wheels of justice. Where perpetrators submit false information, an innocent individual may suffer negative consequences. As a case in point, the Circuit Court of Klaipėda fined an innocent man with an administrative penalty. The individual discovered his presumed debt upon receipt of a debt collection notice from court bailiffs. The individual was unable to appeal the action due to the fact that the time limit for this measure had already expired⁷⁴. Though a mistake had been clearly committed, the system failed to provide for the restoration of justice⁷⁵.

Law enforcement institutions could do more to prevent crime and/or re-

spond in due course. Often callers attempting to report a crime in progress have been advised to phone again when the actual crime is being committed or when vital help is needed. Police tend to arrive at the scene of a crime in time to register the offence. Analysis conducted by the Lithuanian Police Department revealed numerous cases where police arrived at the scene of the crime up to 12 hours after a complaint or not at all. Every second respondent who claimed that the police failed to appear in a timely manner lived in a rural area⁷⁶.

Violations could be addressed through the establishment of an independent institution as recommended by the UN Human Rights Committee to supervise and control law enforcement activities⁷⁷. The recommendation should be swiftly implemented to combat recurring violations illustrated in the above cases, among others.

More broadly, Lithuanian police lack public accountability. The *Code of Police Ethics*, adopted in 2004, fails to reflect 2001 recommendations by the Committee of Ministers of the Council of Europe included in the *European Code of Police Ethics*. The European Code stresses the importance of the taxpayers' right to know the amount of state funds allocated to law enforcement institutions—and how the money is used, what services citizens can expect from police, and how po-

Police lack public accountability.

lice secure personal inviolability and property. Currently, Lithuanian police units account for activities with reporting carried out within the system. Little, if any, of that information reaches the public domain.

A common misperception illustrates the point. Police often complain of insufficient resources. The problem rather lies in inefficient usage of existing ones. The number of police officers in Lithuania is one of the highest in Europe: 518 policemen per 100,000 residents. This number twice exceeds that of Denmark, Finland, the Netherlands or Sweden. While Lithuania possesses one of the highest per capita ratios of police officers in Europe, the actual number of entry- and middle-level police remains low. Top-level police officials (commissioners) number 4.6 percent in Lithuania, more than twice the EU average of 2 percent. Rank-and-file policemen account for 58 percent of the force, whereas entry-level officers number 80 percent of policemen in EU countries⁷⁸. Redistributing existing human resources would enhance efficiency and quality throughout the system.

⁶⁰ A 2004 HRMI survey indicated that 88.7 percent of Lithuanians believe the investigation and disclosure of criminal offences is a very important activity of the police. About 89 percent indicate that the objective of the police is to

safeguard public order and public security; meanwhile, 85 percent claim that the crucial objective of the police is to provide instant assistance to aggrieved persons.

⁶¹ A 2004 public survey, conducted by the Baltijos Tyrimai Market Research and Public Opinion Company, revealed that 45 percent of Lithuanian residents distrusted the police. As many as 63 percent of aggrieved persons mistrust the police (47 percent of aggrieved persons evaluated police operation as poor, while 16 percent deemed police activities to be very poor). See: “Every Other Citizen Distrusts the Police and Feels Insecure”, *ELTA News Agency*. 17 June 2004.

⁶² The pre-trial investigation concerning the actions of the police officers, initiated in June 2004, is still in progress.

⁶³ “Assault on Drug Dealers Put Suspect into Coma”, West Express (*Vakarų Ekspresas*), 25 September 2004.

⁶⁴ A. Strakšys. “Devaluation of Justice?” *Siauliai Region (Šiauliai Kraštas) Daily*, 28 June 2004.

⁶⁵ Office of the Parliamentary Ombudsmen research. See: www.lrski.lt.

⁶⁶ “Suspected Murderer of Step-Daughter Didn’t Live to Serve Sentence”, *The Republic (Respublika)*, 16 June 2004.

⁶⁷ “Police and Human Rights” in *Human Rights in Lithuania: Overview*, HRMI, Vilnius, 2004, p. 22. Available: www.hrmi.lt.

⁶⁸ *2003-2007 Programme for Renovation of Detention Facilities and Improvement of the Detention Conditions*, approved by Government Resolution No. 141, 29 January 2003.

⁶⁹ Interview with S. Liutkevičius, Deputy Police Commissioner.

⁷⁰ *Journal of Lithuanian Police*, 2004, No. 12. 15 (15-353).

⁷¹ Detention facilities in Kaunas and Klaipėda cities face especially severe problems where one person has been provided with no more than two square metres of space.

⁷² Parliamentary Ombudsmen Office report, 18 March 2004.

⁷³ 1 Euro () = 1.2438 (\$) USD in 2004, according to the US Federal Reserve Bank.

⁷⁴ “The State and the Citizen”, West Express (*Vakarų Ekspresas*), 18 October 2004.

⁷⁵ This case also illustrates the importance of proper protection of personal data. See chapter on the right to respect for private life.

⁷⁶ *2003–2005 Programme for Enhancements in the Work of Police Inspectors and Improvements in Security in Rural Areas: Chapter II. Situation Analysis. Government Resolution No. 477, Official Gazette, 14 April 2003. No.37 (1619).*

⁷⁷ The Committee made the recommendation in 2004 in its response to the Lithuanian government progress report on implementing the International Covenant on Civil and Political Rights. The Committee of Ministers of the Council of Europe made a similar recommendation in 2001.

⁷⁸ R. Matonis. “Relationship between Police and Society in Crime Prevention”. Master Thesis. Mykolas Romeris University. Vilnius, 2004.

6. Rights of Crime Victims

A 2004 public opinion survey indicated that Lithuanians overwhelmingly believed that crime victims are treated poorly. Nearly a third of Lithuanians felt that victims' rights have not been adequately protected, even more could not name to which institution citizens could lodge grievances⁷⁹.

Great expectations were placed on the progressive legal practice of the European Union to provide crime victims with adequate assistance and support. In fact, the same public opinion poll indicated that about 5 percent of Lithuanians felt the situation worsened after EU accession; over 55 percent claimed the situation remained unchanged⁸⁰.

As in previous years, crime victims have obtained legal status, thus, due rights and assistance, with difficulty. A system to address damages, especially moral, has not functioned adequately; it requires immediate attention, particularly from parliament.

Crime victims have been assigned the status of victims under law rather slowly, causing further delay in their access

Police appear unmotivated to register complaints, open pre-trial investigations or recognise an aggrieved person as a crime victim.

to state-supported assistance. Police have appeared unmotivated to register complaints, open pre-trial investigations or recognise an aggrieved person as a crime victim. This can be attributed to the fact that the main indicator of police performance relies on the number of cases solved. An analysis by district public prosecutors' offices revealed that one district police unit denied three requests to open pre-trial investigations, while another unit of a similar size decided to reject pre-trial investigations in as many as 900 cases⁸¹.

The act of opening a pre-trial investigation is important. Without it, a victim cannot be assigned legal status; therefore, an aggrieved individual is denied access to his or her rights as a crime victim. Clearly, rigorous supervision and control should ensure that any refusal to initiate pre-trial investigation is justified. The criterion of solved cases should not be the main indicator used to assess police performance.

Until now, victims do not receive compensation from the government Crime Victims Fund because parliament has failed to adopt the *Law on Compensation for Damage Caused by Criminal Offences*, submitted to parliament in 2002. Therefore, the fund envi-

sioned by this draft law has yet to take effect. An EU Directive on *Compensation for Damage Caused by Purposeful Violent Crimes*, adopted in 2004, obligates Lithuania to develop a mechanism for the compensation of damage to EU citizens, including Lithuanians. No draft instrument enforcing this Directive has been developed or submitted for consultation to relevant public authorities or NGOs.

Compensation for moral damage appears to be among the most urgent, yet least examined, issues. The very notion has been accepted with great hesitation.

Criminal law prescribes that an individual can be recognised as a crime victim when he or she suffers physical, property (material) or moral damage as a result of a criminal offence. In practice, it is presumed that certain offences which do not cause property damage do not warrant moral compensation. Where victims are compensated for material damage, further thought is hardly given to the moral damages they may have suffered in the belief that material compensation was sufficient.

Positive precedents have emerged. In 2004 a woman reportedly was

Compensation for moral damage appears to be among the most urgent, yet least examined, issues.

awarded LTL 50,000 (14,493) in moral damages on top of compensation for material losses endured when her husband was killed in a car accident.

⁷⁹ Results indicated that 47 percent of respondents have rated the situation of crime victims as bad or very bad; only 5 percent considered the situation to be good or very good. Furthermore, 37 percent of respondents believe that too little attention has been paid to crime victim rights. As many as 45 percent of respondents don't know to which institution to address violations of victims' rights. See: "The Situation of Human Rights in Lithuania and Evaluation of Human Rights Protection System", representative public opinion survey (N = 1,000), conducted by Vilmorus Market Research within the framework of the National Human Rights Action Plan.

⁸⁰ Ibid.

⁸¹ *Journal of Lithuanian Police*. No. 13. November 2004, (15-351).

7. Rights of Prisoners

The following issues emerged or remained unresolved in 2004: lack of transparency in relations between prisoners and prison staff, violations of prisoners' labour rights and unjustifiably limited opportunities to maintain social ties with the outside world. Government institutions continued to approach the re-integration of prisoners into society unenthusiastically in 2004.

Ambiguity in permissible interaction among prisoners and between prisoners and prison staff has created conditions for human rights violations. Complaints reported in 2004 involved serious injuries resulting from violence within the prison population and exchanges between prisoners and guards. Prisoners have inevitably found themselves in weaker positions whenever incidents with guards have not been monitored.

HRMI observed a case heard by Kaišiadorys circuit court in which a prisoner serving time for another crime was convicted of assaulting a group of guards. Case records reveal that during the incident the prisoner had been left alone with several prison officers in a closed yard. A medical examiner concluded that the prisoner received numerous injuries; no record of the injuries to the

Prisoners inevitably found themselves in weaker positions whenever incidents with guards were not monitored.

officers exists. Statements from witnesses came exclusively from prison officers who were involved in the incident. Surveillance cameras equipped in the public areas of prisons and detention facilities would ensure monitoring of physical contacts among prisoners and between prison guards. Recorded surveillance in the above case, and similar incidents, would assist courts in reaching objective conclusions⁸².

In 2004 the parliamentary ombudsman identified cases when convicts were not paid for their work, accounting of their labour was not managed properly or convicts worked without remuneration⁸³. This practice violates European prison rules⁸⁴, which determine that imprisonment institutions must introduce fair compensations for prisoners' labour.

A proposal to prohibit the delivery of food parcels to convicts has been questioned. The need for this measure as a means to effectively control the flow of drugs or other mind-altering substances into prisons is arguable. Officials maintain that prisons are not equipped with enough state-of-the-art equipment or time to adequately check parcels individually. Nevertheless, an absolute prohibition might not be necessary. Drug trafficking in prisons could be approached by reducing the amount

of parcels allowed to enter prisons within a given period of time to enable officers to duly perform their duty. The proportionality of a total prohibition is doubtful, as it is unlikely that the measure will curb drug dealing. It will, however, sever much-needed social ties that smooth the progress of prisoners' re-entry into society.

The *Penal Code* continues to restrict prisoners' communication with the outside world. Opportunities to receive visitors or make telephone calls to family members remained curtailed in 2004⁸⁵. Contact with the outside world is an important part of building—or preserving—positive social ties, which aid the prisoner in social reintegration upon release. Where prisoners are denied access to social contacts, they may employ other creative means to connect to the outside world. Mobile telephones are increasingly smuggled into prisons, partly as a result.

To strengthen social ties, visitation rights should be expanded to allow family members short- and long-term stays. Psychological assistance should be rendered both to the prisoner and the individuals communicating with him or her, as well as family members, to assist in maintaining social bonds. The number of telephone calls allowed to prisoners should be markedly

Opportunities to receive visitors or make telephone calls remained curtailed.

increased or current limitations removed altogether.

Efforts to re-integrate released prisoners into society have failed to adequately address intolerance among members of society⁸⁶. In 2004 the government approved the *2004-2007 Programme on the Social Adaptation of the Convicts Released from Imprisonment Institutions* without full consideration of prevailing negative attitudes towards former prisoners. The position of former prisoners within society requires further reflection to facilitate the re-integration process.

⁸² *Project on Trial Observation*, HRMI, 2004. See: www.hrmi.lt/projects.

⁸³ "The Convicts Toil Hard in the Corrective Institutions for Peanuts," *The Republic (Respublika) Daily*, 08 October 2004.

⁸⁴ Recommendation R (87) 3 of the Committee of Ministers to Member States *On the European Prison Rules*, Council of Europe. Available: <https://wcm.coe.int>.

⁸⁵ Depending on the category to which a prisoner is ascribed, he/she is permitted one short and one long visit per two or three months. Those in the disciplinary group are not permitted visits at all. The majority of other offenders are allowed one telephone call every one or two months.

⁸⁶ "Prisoners Rights" in *Human Rights in Lithuania: Overview*, HRMI, 2004; p. 27. Available: www.hrmi.lt.

8. Discrimination, Racism, Anti-Semitism and Other Forms of Intolerance

A 2004 public opinion poll⁸⁷ indicated that Lithuanians believe the elderly suffer the greatest discrimination, followed in descending order by the disabled, gays and lesbians, women, children and ethnic minorities. The fact that the Lithuanian public perceives ethnic minorities to suffer the least discrimination speaks to a widespread lack of awareness on the cause, content and consequences of discrimination. A high concentration of ethnic homogeneity and limited experience with multiculturalism tend to promote a climate of insensitivity toward other ethnic groups, even justification of stereotypes and discriminatory behaviour.

Promoting negative stereotypes, the media routinely publicise information on the ethnic origin of lawbreakers. For example, a popular news portal featured an article on “a shifty Roma woman” who tricked a “gullible citizen” out of a significant sum of money⁸⁸. Statements made by high-level state officials have added to the problem. In another case, the highest-ranking police commissioner felt the need to warn

The fact that the Lithuanian public perceives ethnic minorities to suffer the least discrimination speaks to a widespread lack of awareness on the cause, content and consequences of discrimination.

Lithuanians in 2004 that Chechens pose a criminal threat⁸⁹.

In the current climate, it has not been unsurprising that the public appeared to sanction an aggressive law enforcement campaign “against drug dealing” in the largest Roma community settlement in Vilnius. There were several problems inherent in the approach. The campaign emphasised that the fight against drugs originated largely within the Roma community. Blanket human rights restrictions were imposed on Roma during the course of the action, such as the instalment of video surveillance cameras in public areas of the settlement⁹⁰. The campaign ended with the demolition of Roma housing by the end of 2004⁹¹. In one action, authorities violated a host of human rights, including adequate housing, private life and protection of property. While drug dealing must certainly be fought, the fight against drugs should be carried out on an assumption of criminal act not ethnic characteristics. Introducing stereotypes into law enforcement actions recklessly endangers human rights belonging to individuals within affected groups.

Proliferated by media and sanctioned tacitly by authorities, stereotypes have manifest into discrimination in vari-

ous fields. Certain industries have been observed denying services to Roma. In one case, Roma women were refused tea in a public catering institution and later were requested that they drink outside upon proving their ability to pay. It is especially important to encourage affected persons to report cases of discrimination and to develop effective mechanisms for response to those complaints.

There appears to be no clear concept or strategy to integrate Roma into Lithuanian society and no apparent understanding of the significance to do so.

aging remarks made by the editor—and owner—of the newspaper against Jews and homosexuals has yet to be made⁹³. Similarly, Jews and

homosexuals were assailed in electronic forums⁹⁴. Lithuanians washed print, broadcast and electronic media in vitriol that essentially amounts to hate crime. State officials and law enforcement authorities did not endorse the outbursts; they did not react critically enough, either.

There appears to be no clear concept or strategy to integrate Roma into Lithuanian society and no apparent understanding of the significance to do so. Moreover, there appears to be reluctance to provide this long-marginalised ethnic group with opportunities to integrate into society. In the absence of political will, the problem only intensifies over time. An immediate step should be to provide support for Roma to defend their rights through legal means.

Broadly-based public discussion on homosexuality in 2004 indicated a high level of intolerance toward gays and lesbians.

2004 witnessed a sustained assault on Jews and homosexuals in daily media. Since February 2004, controversy endured following the publication of a series of articles in the second-largest daily newspaper⁹². A legal evaluation of dispar-

The majority of Lithuanians would not want the general public to know about the non-traditional sexual orientation of their children

The majority of Lithuanians would not want the general public to know about the non-traditional sexual orientation of their children⁹⁵. At the same time, Lithuanians appeared aware that the issue might affect a substantial portion of society. Those homosexuals who choose to “come-out”, or make public their sexual orientation, experience substantial social barriers. Partnerships cannot be made legal; issues arising from common property or inheritance cannot be solved. To avoid condemnation, and potential material loss, homosexuals are

forced to maintain socially-accepted appearances, including fabricated relationships.

State policy on dual citizenship discriminates against Lithuanian citizens of non-Lithuanian ethnic origin. Lithuanian citizens of non-Lithuanian ethnic origin cannot secure dual citizenship for foreign-born spouses or children. At the same time, individuals of ethnic Lithuanian descent who hold citizenship in a foreign country have been entitled to receive citizenship in Lithuania.

The *Law on Equal Opportunities*, which came into force in 2005, presented a positive development in reducing discrimination. The central amendment shifts the burden of proof to the defendant. A person who believes he or she is discriminated against will need only to produce *prima facie* evidence in the case. It is of the utmost importance that judges—and lawyers—are trained to work on cases of this nature; it is equally important to educate the public on the scope and content of the law.

women are discriminated most; 13.9 percent named children; and 7.1 percent named ethnic minorities. See: “How Does the Community Rate the Situation of Human Rights in Lithuania?” HRMI, 2004. Available: www.hrmi.lt.

⁸⁸ See: <http://www.delfi.lt/news/daily/crime/article.php?id=5950112>.

⁸⁹ The Republic (*Respublika*) Daily, 17 April 2004.

⁹⁰ The Republic (*Respublika*) Daily, 01 October 2004.

⁹¹ ELTA News Agency on Omni Internet portal. 06 December 2004. See: www.omni.lt

⁹² See: “Freedom of Media” in *Human Rights in Lithuania: Overview*, HRMI, 2004; pp.13-14.

⁹³ Although Vitas Tomkus resigned as editor of The Republic (*Respublika*), he remained in the position of owner, which, in Lithuania, carries substantive weight in editorial management.

⁹⁴ The “Jewish issue” appears to be the top concern of discussants on the popular *Delfi* portal.

⁹⁵ “How Does the Community Rate the Situation of Human Rights in Lithuania?” HRMI, 2004. Available: www.hrmi.lt

⁸⁷ The poll found that 26.5 percent of respondents thought the elderly suffered the greatest amount of discrimination; 18.6 percent maintained the disabled suffered most; 16.5 percent perceived the greatest discrimination against sexual minorities; 14.5 percent believed that

9. Rights of Vulnerable Social Groups

9.1. Patients

Sociological surveys confirm public disappointment with the lack of attention paid to healthcare in Lithuania. More than one-third of Lithuanians hold a negative view on the ability of the system to deliver high-quality medical aid in a timely manner. The survey revealed that the right to timely, high-quality medical aid has been violated among every fifth respondent or his/her family member⁹⁶. HRMI documented healthcare providers among the top three institutions that violate human rights to the greatest extent⁹⁷.

Mass media monitoring in 2004, coupled with an analysis of legal framework for the healthcare sector, disclosed unethical conduct among physicians, managerial inefficiency in delivering health care services, an irrational approach to patients in need of continuous treatment and nursing, entrenched practice of coercion against psychiatric patients, restricted access to information, and violations of the right to respect for privacy.

The prevailing practice among physicians is to provide

General practitioners fail to pay sufficient attention to disease prevention; they, moreover, are chronically non-communicative, even dismissive, in addressing patients' concerns

higher quality services to patients who offer extra payment or who are known personally. General practitioners fail to pay sufficient attention to disease prevention; they, moreover, are chronically non-communicative, even dismissive, in addressing patients' concerns⁹⁸. This practice can be attributed to an uneven work distribution among physicians, accentuated by ambiguous ethical standards, a general reluctance to accept the view that patients are service users (clients) whose rights must be observed, in particular.

In 2004 attempts were made to regulate conduct through the adoption of codes of ethics. Two conceptually incompatible versions emerged. One imposed far-reaching restrictions on medical specialists. Another failed to take into account patients' rights. Further clarity is essential. Work principles must be defined promptly, along with relations with patients, colleagues, state institutions and overall responsibility for professional misconduct must be enforced.

The primary healthcare system is managed poorly. Live queues continue to endanger timely, quality healthcare, despite the introduction of online registration systems. Patients have been forced to spend

countless hours in queues for up to two weeks to obtain a referral to a specialist. More should be done to modernise the system by introducing healthcare management expertise, in particular.

An especially disturbing practice prevails with regard to patients in need of continuous treatment and nursing.

In essence, a patient assigned to a nursing hospital is legally obliged to recover quickly or die within four months⁹⁹. To attain that privilege, applicants to nursing hospitals¹⁰⁰ have been placed on a long waiting list until a limited number of government-funded beds becomes available each year¹⁰¹. Funds for each insured patient hospitalised in a nursing hospital total LTL 41.5 (€ 12) per day for a maximum 120 days per year, regardless of the patient's health status. Of that daily allowance, up to LTL 3 (€ 0.87) are allocated for medicine. Seriously ill patients may require medicines that cost a hundred times more. HRMI knows of a case where the caregiver of a woman critically injured in a serious car accident was given an ultimatum: either take the patient home to continue care, transfer the patient to another nursing hospital 50 km from Vilnius – or pay the nursing home LTL 2,000 (€ 580) per month.

A patient assigned to a nursing hospital is legally obliged to recover quickly or die within four months.

Implementation of new legal amendments¹⁰² adopted in 2004, presents separate challenges.

Amendments, which came into effect in the beginning of 2005, focus on compensation for damage endured during the provision of treatment or services. Compensation is based on the culpable actions of healthcare specialists¹⁰³ and the actions of individuals conducting examinations who do not comply with biomedical research standards¹⁰⁴.

At the introduction of the amendments, however, institutions operated without the mandatory liability insurance. The government mandated the insurance but did not allocate sufficient funds for the healthcare institutions to purchase the protection from private companies. Instead, some heads of institutions used funds allocated for patient treatment to purchase the insurance.

The amendments establish a new mechanism to enable patients to file claims for moral damages, which, in any single case, may not exceed 50 minimal monthly salaries, or approximately LTL 25,000 (€ 7,246). Moral damage can be reimbursed for breach of healthcare quality or confidentiality of personal health information. Under the amendments, the decision on compensation would be taken by

the newly introduced Commission created for this purpose. Patients would not be prevented from lodging an additional complaint to the court for moral damage, in accordance with the *Civil Code*, which does not specify a maximum amount. In other words, patients may claim far more than the new amendments provide. In 2004 the Lithuanian Court of Appeals awarded LTL 500,000 (147,059) in moral damages to parents whose newborn twins were severely burned while at the hospital. The maximum reimbursement had previously amounted to LTL 140,000 (40,580) in the most serious cases resulting in patients' death.

Patients' right to receive information has been further violated. While medics are duty bound to inform the patient (or the lawful representative of a minor), in practice, the patient is rarely provided with easily-understood terminology and explanation of diagnoses, potential side effects of medicines, alternative treatment methods and likely prognoses. By law, patients must approve treatment. Grave consequences may occur where patients fail to receive adequate information or to fully grasp the situation. In one case, a young girl lost her hearing while being treated with Gentamicin, a strong antibiotic. Her parents were not informed of the potential side effect of the drug and

Grave consequences may occur where patients fail to receive adequate information or to fully grasp the situation.

thus could not take measures to prevent further consequence to the child's health¹⁰⁵. When providing any treatment, physicians should obtain a written approval from the patient, or legal guardian, which contains detailed information on the patient in question.

Psychiatrists have been especially reluctant to provide information to patients suffering from mental disorders because of supposed threats to patients' health. Mental health patients have been assumed to be unable to comprehend their disorders; therefore, psychiatrists tend to adopt decisions without consulting the patient. Patients suffering from mental illnesses have the right to receive information provided to them in a clear and easily understood manner.

In 2004 a patients' rights group and association of mental health patients initiated a study¹⁰⁶ in which patients undergoing treatment in mental hospitals and boarding homes took part in a survey on violations of their rights¹⁰⁷. Preliminary results indicate that patients were most often dissatisfied with general staff ignorance about patients' rights, disrespectful treatment by entry-level staff and lack of opportunity to contest the medicines and treatment methods prescribed by specialists. Other

complaints concerning patients' right to choose the method of diagnosis

Reports emerged concerning coercion against psychiatric patients.

appeal decisions concerning treatment.

and treatment or reject treatment altogether. By law, patients must be informed of their right to reject treatment, especially in cases where courts order mandatory hospitalisation solely on the basis of written psychiatric opinion—without evaluation—and in the absence of the patient during court proceedings.

Although the law provides for the right to protection of confidential information, an absence of detailed regulations obstructs its implementation in practice. This leads to situations in which physicians may be unsure of how to protect patients' confidentiality.

Reports emerged concerning coercion against psychiatric patients. Specific data is lacking, however. It is expected that the magnitude of the problem will be revealed by Lithuanian psychiatrists participating in a European project¹⁰⁸ that tests the extent to which coercion is used in mental hospitals¹⁰⁹. Coercion extends to forced hospitalisation. Up to two percent of hospitalised patients reportedly were hospitalised by court ruling, i.e., unwillingly¹¹⁰. However, empirical data indicates that the percentage of patients hospitalised involuntarily exceeds 2 percent, namely due to psychological pressure or manipulation, which does not fall within the prevailing concept of coercion. Patients pressured into hospital admission cannot be considered volunteers. The patient should be informed about the right to disagree with treatment, including hospitalisation, and to

Patient confidentiality has been breached by seemingly innocuous practices.

Patient confidentiality has been breached by seemingly innocuous practices. Information on a patient's status can be gleaned from the mere fact that a patient is requested to wait in queues by doors which post doctors' specialisation. An individual waiting near a door specified for a psychiatrist would be assumed to be a psychiatric patient, regardless of whether the individual was, in fact, seeking psychiatric treatment. Psychiatrists violate patients' right to privacy by disclosing their health status to other persons not previously authorised by the patient to receive the information, including family members. Individuals claiming to be relatives inquiring about the patient's status over the telephone should be especially restricted from accessing patient information. By law, health care specialists cannot confirm or deny whether a person is in a health care institution; health care informa-

tion is confidential even after death¹¹¹.

To encourage mutual trust between patients and physicians, which would make for successful treatment and would ensure implementation of patients' rights, it is essential to dedicate further attention to the security of confidential information.

9.2. The Disabled

One-third of Lithuanians believe that the human rights of the disabled received insufficient attention in 2004, according to a public opinion poll, which also suggested that nearly two-thirds of Lithuanians could not identify to which institution the disabled should address violations¹¹². A HRMI public opinion survey confirmed the results, finding that the disabled were thought to be the second most discriminated social group, especially disabled youth, and particularly in the fields of education and employment¹¹³.

The legal framework for addressing concerns of the disabled underwent reform in 2004. Parliament adopted a new *Law on the Social Integration of the Disabled*¹¹⁴ to ensure equal rights and opportunities and to consolidate fundamental principles of

The disabled have not been able to enjoy full use of public facilities and services.

social integration. The amended *Law on State Social Insurance Pensions* entered into force, thereby increasing state pensions for the disabled¹¹⁵. The new *Law on Social Assistance Pensions* came into effect in 2004¹¹⁶, for the first time in a decade, to augment social assistance pensions for disabled adults¹¹⁷. The *Law on Equal Opportunities*¹¹⁸, which took effect in 2005, prohibits any direct or indirect discrimination on the grounds of disability¹¹⁹.

While Lithuania progressed significantly in human rights protection for the disabled, urgent issues remain: irrational policies and abusive practices toward mentally disabled and ineffectual mechanisms for accountability and supervision of assigned caregiver institutions. The disabled have not been able to enjoy full use of public facilities and services. Impediments have extended to access to information, education and vocational training, which prohibit the disabled from enjoying full lives. Accessibility to the labour market has been an imperative question. The processes for determining legal incapacity and assigning care¹²⁰ remain relevant concerns.

The situation of the mentally disabled has been notably problematic. Opinion polls have shown that every other

Lithuanian would prefer to isolate individuals suffering mental disabilities in institutions caring for mental patients on a regular basis¹²¹. It has been widely believed that mentally disabled people are dangerous for others and that restrictions on their rights can be justified. This antiquated view contradicts modern perceptions. EU and members state policies seek to eliminate large custodial institutions and replace them with more open and flexible care in the community. Such institutions had been built rather for economy of function than treatment and, over time, had become repressive and regressive.

The failures of social care homes, or nursing homes for the mentally disabled, are evidenced by repeated cases of ill treatment of patients. For instance, a brutally beaten person contacted a newspaper editorial office in 2004, claiming that staff “beat patients like apples, pound and kick them, while the director ignores it”¹²². Illustrating wider attitudes within the system, a social worker assigned to the above case remarked “idiots do not feel pain”. In another case, a social worker initiated charges of slander against a boarder who claimed that the social worker abused him physically¹²³. Litigation initiated by an employee against a mentally disabled

Every other Lithuanian would prefer to isolate individuals suffering mental disabilities.

There were reported attempts to conceal violent actions of an institutional employee.

patient is a rather dubious demonstration of professional ethics.

There were reported attempts to conceal violent actions of an institutional employee from the public under the pretext that a brawl had broken out among boarders. A mentally disturbed woman involved in the incident was later advised to “choose” to be shut in an isolation ward for one month or to be taken to a psychiatric hospital. The woman was promptly delivered to a psychiatric hospital but returned after 52 days. Police concluded there were no grounds for a pre-trial investigation since the apparent conflict occurred among mentally disturbed residents of a boarding home¹²⁴. In reaction to the story, an inmate at an unrelated boarding home speculated that the woman was not likely to have spoken out against her treatment because mentally disabled boarders “are usually calmed down by enormous doses of drugs for attempting to speak out”¹²⁵.

Such incidents are perpetuated by the relative isolation of institutions; mental health care institutions form a separate community which enjoys little contact with the society at large.

Failures within the system are accentuated by weak reporting and accounting

procedures, ineffective administration, inadequate inspection or quality assurance. At the same time, there appears to be a lack of programs to train psychiatrists, nurses, social workers and occupational therapists on modern approaches intended to humanise psychiatric nursing. Councils of mentally disabled individuals should be established in custodial institutions to represent the interests of the population.

Failures within the system are accentuated by weak reporting and accounting procedures, ineffective administration, inadequate inspection or quality assurance.

tions and commercial ventures have not fully equipped the market to promote disabled access to a broad range of educational programs

and materials. In other words, disabled citizens do not enjoy access to materials that would enable them to develop their education, thus, their participation and “marketability”, thereby forcing otherwise capable citizens to become dependent on the state.

Most disabled cannot enjoy the use of public facilities and services. Lithuanian law mandates that public areas become accessible to the disabled. Yet most public buildings, transportation and housing have not been adjusted to the needs of the disabled. Few accommodations have been made for wheelchair-bound citizens; they must negotiate multiple stories in buildings without a lift. Thus, disabled individuals facing physical impediments to mobility and accessibility have been, in effect, barred from full participation in public life.

It has been in the fields of education and vocational training that the disabled have found accessibility an imperative question.

Physical impediments extend to access to information. Modern technology allows for hearing- and sight-impaired citizens to read books, listen to audio recordings, browse the Internet and stay in touch with acquaintances via e-mail. Lithuanian public institu-

Conditions for nurturing disabled children were introduced into law in 1998¹²⁶. Special needs of the disabled were confirmed in general legal act promulgated in 2003¹²⁷. The government has yet to approve the legal regulations guaranteeing enforcement of its provisions prepared as early as 2000¹²⁸. This may be attributed to the fact that the state budget does not envision funding for implementation of the legal acts. No positions have been established—or funded—for the specialists that have already been trained to perform work. Ergo, children with special needs have been mostly taught at home instead. Lessons facilitated by a

certified teacher twice a week can in no way compare the quality of education a child may receive from attending lessons five times weekly in a mutually-reinforcing educational environment. Additionally, special needs children should not be isolated in special schools. Learning environments must be sufficiently equipped to respond to the needs of the disabled, including transportation, interpreting and other social services, especially in rural areas.

Able individuals have been nine times more likely to find work than employable disabled citizens¹²⁹. Professional services to prepare the disabled for the workforce have been in short supply or these providers have incorporate ineffective methodologies in their work. The disabled have found support currently in local initiatives or individual programmes offered by non-governmental organizations. The government has, in effect, pre-determined the professional potential of the disabled by requiring job-seekers to choose from a list of potential employment positions in order to receive the limited support available¹³⁰. Certain revisions to the strategic plan approved by the Council for the Affairs of the Disabled are in order. Further actions should bear in mind the market principles of demand and supply in the design and application of professional services and counselling.

The government has, in effect, pre-determined the professional potential of the disabled

Furthermore, community and institutional assistance should be co-ordinated to ensure access and quality assurance.

9.3. Children

At the start of 2004, children¹³¹ accounted for 22.5 percent of the Lithuanian population. Statistics Department data indicate that within the last four years the number of children has decreased on average by 26,000 each year. Over 3,000 children lost parental custody in 2003, similarly the following year¹³². The Children's Rights Ombudsman registered nearly 20,000 families at risk of crisis¹³³, or about 40,000 children¹³⁴.

Lithuania has ratified all major international acts protecting children's rights. Thus, children's rights can be considered protected legally. Enforcement institutions were established, i.e. the countrywide network of children's rights protection services and the Ombudsman for Protection of the Rights of the Child. Still, the mechanism for abuse prevention has been far from effective. This area of human rights has been marked by an absence of a uniform children's rights policy, lack of mutual co-operation between the institutions, unclear division of responsibility among institutions active in this area and incidences of apathy

and/or incompetence in the network of children's rights protection.

Children suffer a vast extent of violence at home and at school.

In advanced democratic states, failure to report a violent incident of which a

Key problems include violence against children; the phenomenon of street children; failure to observe children's rights while victims, witnesses or minor offenders in criminal proceedings; failure to protect children's interests while in state custody; sexual abuse and violations of the right to adequate housing.

witness is aware constitutes concealment and, thus, complicity in the eyes of the law. Lithuanian media regularly report on cases where neighbours heard, saw or otherwise witnessed violence against children. Rarely have those cases been reported to law enforcement or child protection institutions. Lithuanian criminal law envisages penalties for witnesses who fail to report "serious" crimes. In other words, child abuse has not been considered a serious act, or a crime.

A situation analysis revealed that the widespread phenomenon of violence against children continues to be a painful issue. Both international evaluations and national surveys show an obviously vast extent of violence against children within schools and families¹³⁵.

Indifference creates a situation where victims of violence become violent perpetrators themselves. A young man repeatedly abused by his mother murdered a young woman in October 2004. Residents of the village had known about the abuse for some time. They acknowledged that due to the sustained abuse from his mother the young man was likely "to become a serial killer as shown in films"¹³⁶. Despite that, and without admitting complicity, the villagers expressed the wish to see the young man receive the death penalty for the crime¹³⁷.

Tolerant public attitudes toward violence in families, and indifference toward acts of violence, have served to foster the phenomenon. Most Lithuanians subscribe to the notion that it is best to abstain from meddling in the affairs of another family. Therefore, witnesses to violence against children have not been likely to speak out. In this climate, violators may consider themselves beyond the need for punishment, while abused children are rendered helpless and unprotected.

Child abuse has not been considered a serious act, or a crime.

Law enforcement officers have appeared unqualified to determine signs of violence against children. Without clear injuries, law enforcement officers

have not been likely to initiate pre-trial investigation. In one case, a woman residing in Pakruojis region continuously complained to child protection services workers that her husband repeatedly tortured her son by employing techniques which left no marks. Police took action only after the man severely beat the woman and her child¹³⁸.

In other cases, local government and law enforcement officers fail to react to cries for help. In the Akmenė region, a woman and her two-year-old daughter were taken to the area hospital for treatment for multiple injuries. The woman told reporters she had repeatedly requested help to prevent the ongoing abuse but never received assistance. In fact, law enforcement officers have been known to return abused children directly to the hands of the perpetrators¹³⁹ or fail to protect children from convicted offenders¹⁴⁰.

Questionable performance extends to social workers assigned to child protection. Social workers in Panevėžys were assigned to continuously monitor parents rearing six children who had suffered repeated neglect and physical abuse at the hands of their parents. The social workers failed to take measures to protect the children from the abuse, even after reports of serious injuries and malnutrition.

Without clear injuries, law enforcement officers are not likely to initiate pre-trial investigation.

Their assistance to the family came in the form of a fundraising campaign to enable the family to expand its housing. A more responsible approach would have been to remove the children from an abusive, potentially fatal, situation¹⁴¹.

An apparent poor coordination between services and institutions has contributed to disturbing incidents. In one case, a six-year-old child died a brutal death at the hands of his parents, while the parents were involved in court proceedings to strip them of custody of a second child, who had been removed from the parents a few months earlier because of physical abuse¹⁴². In a separate incident, a woman whose eight children had been taken away from her because of starvation and torture inflicted on them by her hands had her parental rights restored¹⁴³.

A study by the World Health Organisation indicates that Lithuanian children tease, taunt, humiliate and abuse each other more than children in 36 other European countries. It has held the first place position since 1998, when Lithuania was included in the international research¹⁴⁴. The problem appears largely unrecognised. No programmes have been implemented to address this phenomenon, though effective approaches have been intro-

duced in many countries worldwide¹⁴⁵.

Lithuanian children tease, taunt, humiliate and abuse each other more than children in 36 other European countries.

Street children comprise a group especially at risk of substance abuse (drugs, alcohol, toxins, etc), which places them in further danger of serious health ailments. These children are exceptionally abused and endure chronic violence. In 2004 HRMI stressed the imperative to identify the cause and the scope of the neglect, abuse and violence suffered by street children¹⁴⁶. HRMI argued that care should be ensured for these children and, if necessary, their families. No substantive changes occurred. Medical, legal and psychological counseling remain out of reach. The phenomenon should be analysed by responsible national institutions for the development of immediate measures to provide substantive aid and prevention.

In 2004 HRMI drew public attention to procedural inconsistencies in misdemeanour cases under administrative liability law¹⁴⁷. No changes occurred. In criminal procedures, certain endangerments to children prevailed. Current law is misleading. In most advanced democratic states, the presence of a psychologist and/or social worker from a responsible child protection institution is mandatory during criminal proceedings involving a minor. In

In criminal procedure, certain endangerments to children prevailed.

Lithuania, the presence of qualified counsellors is encouraged, but not mandatory. HRMI

argues that it is the imperative duty of the state to provide for a qualified psychologist and child protection representative at any and all criminal proceedings involving a minor. In addition, minors should not be cross-examined in the presence of the perpetrator. The mere sight of the perpetrator is enough to negatively influence—perhaps permanently damage—the child’s state of mind. Where children become suspects in alleged criminal offences, special considerations must apply. Restrictions on freedom must be employed sparingly. Currently, law enforcement officers detain suspects without much thought to the fact that minors require special attention to prevent long-term psychological damage. More broadly, law enforcement officers demonstrate an overall lack of awareness and sensitivity needed to handle minors. Responsible institutions should develop a methodology and approach to train law enforcement officers in working with minors.

Children in state custody pose additional challenges. About 14,000 Lithuanian children resided in various children’s care institutions, boarding homes and foster families¹⁴⁸. The fig-

ure could be reduced by timely, effective state intervention before troubled families inflict irreparable damage on the child. The extent of the problem has yet to be fully analysed. An audit of children's homes by the State Inspection revealed that the state cannot fully explain the number of children residing in these homes, how they arrived there, and how much—or for what purpose—money is assigned for their care¹⁴⁹. In 2004 no changes were initiated to address prevailing concerns. A persistent problem remains a shortage of qualified experts and/or psychologists able to work effectively with children. On the national level, government should de-centralise institutional care. Permanent care in large institutions cannot provide an environment conducive to proper upbringing—or sustained protection of individual children's rights.

Sexual abuse and exploitation has been a widespread phenomenon. Research indicates that one-third of children and youth suffer sexual abuse from adults and peers¹⁵⁰. Victims frequently avoid reporting the offence to police. This might be explained by a general shortage of information on rights of sexually-abused children and youth, as well as negative

The state cannot fully explain the number of children residing in social care homes, how they arrived there, and how much—or for what purpose—money is assigned for their care.

One-third of children and youth suffer sexual abuse from adults and peers.

attitudes judging police ability to respond effectively to the abuse. Where there is no reaction, or an unenthusiastic one, sexual abuse is repeated over time.

In Marijampolė region, a father was allowed to abuse his five-year-old daughter for six years before the case was brought, accidentally, into the open¹⁵¹. Like crime victims, and victims of physical abuse, sexually-abused children face reluctance or rejection altogether from law enforcement officers expected to prevent further exploitation¹⁵². Criminal law fails to treat sexual abuse satisfactorily, moreover. The law treats child molestation as a minor offence deserving soft punishment in the form of a fine¹⁵³ or brief arrest.

The ratification of the *Optional Protocol to the UN Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography* in May 2004 is a welcome development. Steps should be taken to adjust legal regulations and current practices to the Protocol. No effective intervention mechanism is in place to address the rehabilitation, skills-development, security and personal growth opportunities of young prostitutes. These youth are brought into the business by family members; oth-

ers choose the lifestyle to support themselves. Their integration and acceptance into social life is obstructed by negative attitudes toward child prostitutes, which are perpetuated by negative treatment from media and law enforcement officers.

Several legal acts have been prepared over the past five years to curb domestic violence; parliament has not place these issues on the agenda.

legal measure allowing victims to be separated from perpetrators, disadvantages endured by women left without government support

in the prosecution of cases related to minor injuries, and failure to implement a programme intended to rehabilitate perpetrators.

An insufficiently examined issue is the right of children to adequate housing. Where parents incur financial hardships, the impact on children has been particularly pronounced. Children has been cast into the streets, along with parents unable to pay outstanding debts to bailiffs¹⁵⁴. Measures should be taken to ensure that children are accommodated while families undergo debt collection proceedings.

9.4. Women

Rights of domestic violence victims

Nearly 46 percent of Lithuanians consider the protection of domestic violence victims (women) to be either poor or very poor, whereas 10 percent believe that the situation is good or very good¹⁵⁵. An entire range of issues enumerated in the introductory HRMI overview of human rights in 2004 remains¹⁵⁶.

Several legal acts have been prepared over the past five years to curb domestic violence; however, parliament did not place these issues on the agenda during that time. In 2004 parliament introduced into law a new measure allowing victims to be physically separated from perpetrators. Practical issues remain to be resolved. It is unclear how the law will be applied when the perpetrator has no alternative housing or when victim and perpetrator live together in remote, rural areas. Short-term separation should be seen as a stopgap measure to prevent further physical violence. In addition to the separation, crisis centres and special services should be established in regions to provide temporary shelter and psychological counselling to victims—and perpetrators.

Problems remain where victims suffer minor bodily injuries or physical pain as a result of domestic violence. In this case, the law does not envision pre-trial investigation; it directs the victim to initiate a criminal court case on her

Key areas for further consideration include practical implications of a new

own. The financial burden falls on the victim, i.e. medical examination. The victim must additionally furnish evidence. In the absence of state support for prosecution, this practice clearly places domestic violence victims at a disadvantage. The law should be amended to ensure that domestic violence victims can rely on state support in bringing perpetrators to justice.

The government initiated a *Social Rehabilitation Programme for Perpetrators of Violent Crimes* in 2004. Research on the particular needs of these perpetrators was carried out in Panevėžys detention facilities. A number of challenges surfaced. The programme itself was prepared unprofessionally. Staff intended to implement the programme were not trained. Professional psychologists and social workers expected to work individually with beneficiaries were not involved. Beneficiaries were not sufficiently motivated to participate in the programme¹⁵⁷. The programme launched activities but was cancelled shortly thereafter; healthcare, educational and social care institutions refused to cooperate satisfactorily. The programme should continue only if the above problems are eliminated. Most importantly, the programme implementation should involve forensic psychologists, social workers and other experts.

Victims face debilitating social stigma; they become additionally victimised by law enforcement, media and the wider public; and law enforcement officials appear soft on traffickers.

Potential beneficiaries should receive sufficient information on the programme and its implementation.

Victims of Human Trafficking

Human trafficking worsened after EU accession, according to the Vilnius Bureau of the International Organisation for Migration¹⁵⁸. In fact, a 2004 public opinion poll indicates that more than one-third of Lithuanians believe prevention measures receives little or too little attention; over half cannot name the institution to refer to on this matter¹⁵⁹.

The *2002–2004 Programme for Control and Prevention of Human Trafficking and Prostitution* aimed at the elimination of causes and conditions for the trade of women and prostitution. International reports point to progress in fighting human trafficking. However, numerous challenges remain unresolved: victims face debilitating social stigma; they become additionally victimised by law enforcement, media and the wider public; and law enforcement officials appear soft on traffickers. These problems were emphasised by HRMI in its introductory human rights overview¹⁶⁰. Victims deserve special attention in the form of psychological, medical and legal assistance. More

should be done to change attitudes toward victims¹⁶¹. It is additionally important to initiate preventive measures for potential victims and provide adequate assistance to them, especially in provincial areas, where little help is available.

9.5. The Elderly

The elderly have been perceived to suffer the greatest amount of discrimination, more so than other groups¹⁶². Despite this perception, rights of the elderly have not been a priority. In 2004 visible discrimination against the elderly could be found in employment. Widespread brutality occurred against the elderly in rural areas.

Age discrimination appears widespread in the employment sector. In 2004 the Office of the Ombudsman on Legal Opportunities decided on 61 complaints related to age discrimination in labour relations; of those cases, 79 percent involved published announcements in which individuals above a certain age were restricted from the competition. Many job announcements condition employment on a certain age range: 25–35, 25–40. Electronic applications for large corporations such as RIMI, IKI and Senukai routinely require disclosure of age. Upon obtaining employment, the elderly tend to be paid

less than their younger counterparts, as evidenced in practices within childminder agencies¹⁶³.

Almost every new day brings news of elderly citizens beaten, strangled or robbed in remote areas. About 75 percent of elderly citizens living in remote areas feel insecure¹⁶⁴. Statistics show that each third crime against rural elderly is a violent offence. Despite this, a police department survey indicates that half of elderly Lithuanians claimed police did not arrive to the crime scene following an incident report¹⁶⁵.

Law enforcement institutions and mass media have formed the misperception that the elderly “waste” valuable police hours with reports of petty infringements, such as chicken theft or stolen aluminium milk drums. In fact, research indicates that about one-third of cash-strapped elderly living in rural areas regularly incur crime-related losses exceeding LTL 1,000 (€ 290), often more than their monthly income from pensions and social allowances.

The 2003–2005 *Programme for Improving Safety of Rural Area Residents and the Operation of Police District Inspectors* aimed to ensure to safety rural area residents and main-

Almost every new day brings news of elderly citizens beaten, strangled or robbed in remote areas.

tain public order there. The programme had not been implemented as planned due to financial constraints. About LTL 3.5 million (around 1 million) was allocated for police training of the LTL 26 million (7.5 million) needed to implement the programme. Of the allocated sum, two-thirds were used to purchase vehicles. The remainder went to maintain those vehicles. With this in mind, it is perhaps unsurprising that crime in rural areas has worsened.

⁹⁶ Over 36 percent of Lithuanians considered patients' rights to be implemented poorly or very poorly, according to a survey carried out by the Vilnius Market and Open Research Centre in "The Situation of Human Rights and the Evaluation of Protection System of Human Rights" conducted 11-14 November 2004 for the United Nations Development Programme ("Support for the Implementation of the National Action Plan on Human Rights"). N=1,000 respondents interviewed.

⁹⁷ "How Does the Community Rate the Situation of Human Rights in Lithuania?" public opinion survey, HRMI, 2004.

⁹⁸ "Millions without Dividends", Kaunas Today (*Kauno Diena*), Daily, 25 August 2004. No. 196 (17353).

⁹⁹ "The State Has Buried a Live Person" The Republic (*Respublika*) Daily, 12 June 2004.

¹⁰⁰ Hospice patients usually include those suffering from chronic, incurable diseases mostly from tumours and those paralysed after heavy trauma in so-called vegetative states.

¹⁰¹ "The Price of Pain Stands at LTL 2.00", Kaunas Today (*Kauno Diena*), 05 May 2004. No. 102 (17259).

¹⁰² *Law on the Amendment of the Law on Patients' Rights and Compensation for the Damage Caused to the Health*, No. IX-2361. Official Gazette, 2004. No. 115-4284.

¹⁰³ Healthcare institutions and relevant staff are deemed at fault when a patient's health is partially or fatally impaired as a result of failure to comply with legal regulations governing provision of health care services and treatment and/or in the methods used for diagnosis and treatment. Healthcare institutions and relevant staff are further at fault when a patient's health is impaired due to deliberate actions of health care providers which may not necessarily violate legal requirements and/or when healthcare providers have been negligent in their duty.

¹⁰⁴ The respective law issued on 13 July 2004 amended the *Law on Ethics of Biomedical Research* by focusing responsibility on the technician conducting biomedical research for liability in physical damage due to impairment or death and moral damage resulting from the research, unless evidence shows that the damage occurred to reasons unrelated to the biomedical research or the deliberate actions of the examined person. Furthermore, a provision limiting the amount of moral damage due to biomedical research to LTL 10,000 (2,890) was removed from the law.

¹⁰⁵ "Medicines May Cause Hearing Loss to Children", The Republic (*Respublika*) Daily, 26 October 2004; p. 1, 3.

¹⁰⁶ The research was initiated by the Patients' Rights Protection Group under the umbrella organisation Club 13 and Company, an NGO uniting those affected by mental health disorders and their families.

¹⁰⁷ The survey examined legal rights to voluntary hospitalisation, information on health status, options for choosing a doctor and treatment method, conduct, provisions for religious practices, means of communication, privacy, living and treatment conditions, among others.

¹⁰⁸ The common evaluation study, titled after the ancient Greek goddess Eunomia, was carried out by scientists from 12 European countries and in which Lithuanian scientists from the Psychiatric Clinics of the Vilnius University Faculty of Medicine took part.

¹⁰⁹ Patients may be hospitalised under coercion or kept in a hospital by force, even though hospitalised voluntarily. A mental patient may be isolated under coercion in a separate ward. A patient may be tied by force or forced to take medicines.

¹¹⁰ “Research of Coercion in Mental Hospitals”, *Bernardinai*. 14 May 2004.

¹¹¹ “While the Patients are not Aware, the Doctor Fails to Observe the Person’s Right to Privacy in Some Cases”, *Utenis* newspaper. 13 July 2004.

¹¹² “The Situation of Human Rights in Lithuania and Evaluation of Human Rights Protection System”, representative public opinion survey (N = 1,000), conducted by Vil-morus Market Research within the framework of the National Human Rights Action Plan.

¹¹³ “How Does the Community Rate the Situation of Human Rights in Lithuania?” public opinion survey, HRMI, 2004.

¹¹⁴ *Law on the Social Integration of the Disabled*, No. IX-2228. Official Gazette, 2004. No. 83-2983.

¹¹⁵ *Amendments to the Law on State Social Insurance Pensions*, No. IX-2017. Official

Gazette, 2004. No. 32-1008. Adopted 12 February 2004.

¹¹⁶ *Law on Social Assistance Pensions*, No. IX-1966. Official Gazette, 2004. No. 21-619. Adopted on 20 January 2004.

¹¹⁷ Ibid.

¹¹⁸ *Law on Equal Opportunities* 2003 No. IX-1826// Official Gazette, 2003, No. 114-5115.

¹¹⁹ Ibid.

¹²⁰ For a comprehensive discussion of the situation in 2003, see: *Human Rights in Lithuania: Overview*, HRMI, 2003.

¹²¹ Ibid. Public opinion conflicts with EU policy, which seeks to eliminate large psycho-neurological boarding institutions in favour of placing disabled into community services instead.

¹²² “Closed Fighting Zone in Aukštelkė”, *Šiauliai Region (Šiaulių Kraštas)* daily, 27 May 2004.

¹²³ The Supervisor Engages in Legal Proceedings with a Disabled Inmate”, *Šiauliai Region (Šiaulių Kraštas)*, 28 July 2004.

¹²⁴ “Scandal Fever Shakes the Boarding Homes”, *Panevėžys Morning (Panevėžio Rytas)* daily, 04 August 2004.

¹²⁵ Ibid.

¹²⁶ *Law on Special Upbringing of the Republic of Lithuania*, No. VIII-969, *Official Gazette*, 1998, No. 115-3228.

¹²⁷ Access to education for persons with special needs is ensured with mandatory adjustments to the school environment; psychological, special pedagogical and individual assistance;

supplementary equipment designed for learning and special education means and other measures prescribed by law. See: *Law on Education of the Republic of Lithuania*, Article 34, No. IX-1630. Official Gazette, 2003, No. 63-2853.

¹²⁸ Acts drafted in 2000-2001 include: *The Provision of Compensational Equipment to Persons with Special Needs in Education Institutions and Homes* and *the Procedure of Service Provision to Persons with Special Needs by Pedagogue Assistants, Readers, Attendants and Interpreters from Sign Language*.

¹²⁹ The government statistics department indicates that 10 percent of the disabled are employed in Lithuania; however, 52.2 percent of the disabled population is of an employable age. The unemployment rate among the disabled stands at 78 percent; the employment rate of able individuals is nearly nine times higher than employable disabled citizens.

¹³⁰ "The Main Problems Faced by the Disabled: Speeches of the Representatives of Different Kinds of Disability", parliamentary conference proceedings on 03 December 2004 to commemorate International Day of the Disabled.

¹³¹ Children are understood as individuals up to 18 years of age.

¹³² Interview with Department of Youth, Ministry of Social Affairs and Labour, 20 January 2005.

¹³³ At-risk families refer to those where one or more family members abuse mind-altering substances, depend on gambling, fail to look after children, allow children to idol or beg; those that cannot care for children due to disability, poverty or lack of social skills; those who use psychological, physical or sexual violence or those who use state social allowances for other interests. See: www.socmin.lt/index.php?-20364556 .

¹³⁴ Unofficial data of the Department of Children and Youth under the Ministry of Social Security and Labour show that the tendencies of 2003 persisted in 2004.

¹³⁵ According to the study, "Teenage Attitude Towards Sexuality and Sexual Abuse", carried out under the order of the Children Development Centre, as many as 46 percent of surveyed children have been punished by corporal punishment. See: http://www.bernardinai.lt/index.php?s_id=125&n_id=5622.

¹³⁶ "Relatives Call for Capital Punishment", *Panevėžys Morning (Panevėžio Rytas)* daily, 04 December 2004.

¹³⁷ Capital punishment was abolished in Lithuania in the late 1990s.

¹³⁸ "Minors Fall Victims to Violence", *Šiauliai Region (Šiaulių Kraštas)*, 01 July 2004.

¹³⁹ A minor runaway reported to police headquarters in Klaipėda that he was afraid to return home for fear of further abuse at the hands of his grandfather. The officers promptly informed the family and returned the boy to the grandfather. See: "Second Grade Schoolboy Fearing his Grandfather Came to Police", *BNS News Agency*, 23 January 2004.

¹⁴⁰ In one case, a seven-year-old boy endured repeated abuse upon his father's release from prison for the same offence. See: "A Minor Treated in Hospital After Suffering Violence", *Šiauliai Region (Šiaulių Kraštas)*, 12 June 2004.

¹⁴¹ In a little known case, the neglect and abuse by the parents is disturbing. One of the children fell out of a sixth-floor window in one incident. Witnesses recalled that the father hastily closed the window without comment, while the mother, who happened to be returning home at the time, merely brought the child indoors. Neighbours called an ambulance. At

the hospital, doctors pronounced the eight year-old child to suffer from multiple traumas, along with malnutrition. He weighed 21kg. The other five children were later diagnosed with mental and physical developmental delays. See: “Child’s Flight from the Sixth Floor did not Move the Parents”, Panevėžys Morning (*Panevėžio Rytas*) daily, 19 July 2004.

¹⁴² In May 2004, a seven-year-old girl suffering physical abuse and starvation was taken away from her parents. Child protective services caseworkers took no interest in her younger brother, also the victim of repeated abuse. The boy was murdered while the parents underwent the custody trial. Six weeks after the child’s death, the mother accused the father of the murder, reportedly to avoid conviction. See: “Hedge Concealed a Horrible Crime”, Lithuania Morning (*Lietuvos Rytas*) Daily, 11 October 2004.

¹⁴³ “Scandalous Caretaker Passes all Obstacles”, Panevėžys Morning (*Panevėžio Rytas*) Daily, 30 September 2004.

¹⁴⁴ An NGO appeal co-ordinated by Children’s Line, an NGO providing psychological counselling to children and youth, to the president, parliament and government of Lithuania, issued 01 October 2004. See: “Services Providing Psychological Assistance by Phone May be Deprived of Funding”, Delfi Internet portal, 27 January 2005. Available: www.delfi.lt.

¹⁴⁵ Interview with R. Povilaitis, Manager of Children’s Line. 15 January 2005.

¹⁴⁶ See “Vulnerable Social Groups” in *Human Rights in Lithuania: Overview*, HRMI, 2004; pp. 34-35.

¹⁴⁷ See “Vulnerable Social Groups” in *Human Rights in Lithuania: Overview*, HRMI, 2004; pp. 35-36.

¹⁴⁸ “Overcrowded Prisons and Children Care Homes Illustrate Indifference Towards Mental Health”, *ELTA*, 29 October 2004. Available: www.delfi.lt.

¹⁴⁹ “‘Illegal’ in Children’s Care Homes”, Lithuania News (*Lietuvos žinios*) daily, 17 January 2005.

¹⁵⁰ As many as 31 percent of children have suffered sexual abuse, according to research conducted by the Child Development Centre in 2004. Available: http://www.bernardinai.lt/index.php?s_id=125&n_id=5622.

¹⁵¹ “Father Excited by Pornography Repeatedly Raped his Daughter”, Lithuania Morning (*Lietuvos Rytas*) Daily, 14 October 2004.

¹⁵² A father undergoing a pre-trial investigation was allowed to continue to live with the three minor daughters he at repeatedly abused sexually until a journalism investigation forced law enforcement and child protection officers to take measures to remove the abused girls from the father’s care. See: “Daughters Abused by Father Left in his Care”, The Republic (*Respublika*), 05 October 2004.

¹⁵³ A criminal case was initiated in the Kretinga Region in 2004 where a man who had been sexually abusing a seven-year-old girl was fined with LTL 500 (145)only. “Father Suspected of Abusing his Daughter”, *ELTA*, 26 January 2005.

¹⁵⁴ In one case, bailiffs evicted a father and his three children upon the request of the Vilnius Municipality. “Three Children Cast to the Street by Municipality”, The Republic (*Respublika*) daily, 28 May 2004.

¹⁵⁵ “The Situation of Human Rights in Lithuania and Evaluation of Human Rights Protection System”, representative public opinion survey (N = 1,000), conducted by

Vilmorus Market Research within the framework of the National Human Rights Action Plan.

¹⁵⁶ *Human Rights in Lithuania: Overview*, HRMI, 2004.

¹⁵⁷ The research was conducted in from March to August 2004 in correction facilities located in the Panevėžys region. Sixty-two prisoners, including two women, took part. However, six prisoners expressed an interest to participate in the programme once it began.

¹⁵⁸ “Lithuanian Women as Modern Slaves”, *Delfi* Internet portal, 26 January 2005. Available: www.delfi.lt.

¹⁵⁹ “The Situation of Human Rights in Lithuania and Evaluation of Human Rights Protection System”, representative public opinion survey (N = 1,000), conducted by Vilmorus Market Research within the framework of the National Human Rights Action Plan.

¹⁶⁰ See “Vulnerable Social Groups” in *Human Rights in Lithuania: Overview*, HRMI, 2004; pp. 38–39.

¹⁶¹ Certain trafficking victims should have the possibility to be released from responsibility for certain offences, such as illegal entry into the country.

¹⁶² “How Does the Community Rate the Situation of Human Rights in Lithuania?” public opinion survey, HRMI, 2004. Available (in Lithuanian): <http://www.hrmi.lt>.

Another national survey in 2004 showed that 40.5 percent of respondents assessed elderly access to social security poor or very poor; 34.5 percent believed that elderly rights receive little or too little attention. As many as 43.6 percent could not name the institution to

which elderly rights should be addressed. See: “The Situation of Human Rights in Lithuania and Evaluation of Human Rights Protection System”, representative public opinion survey (N = 1,000), conducted by Vilmorus Market Research within the framework of the National Human Rights Action Plan.

¹⁶³ For additional details, see: “Discrimination, Xenophobia and other forms of intolerance” in *Human Rights in Lithuania: Overview*, HRMI, 2004; p. 29.

¹⁶⁴ Dobryninas A., Gaidys V. “Is Lithuanian Society Secure?: Victimisation experience, and the attitude towards the penal justice and public security of the Lithuanian population”, Parliament, United Nations Development Programme, 2004; p. 65.

¹⁶⁵ *2003–2005 Programme for Improving the Security of Rural Area Residents and the Operation of Police District Inspectors: Chapter II. Situation Evaluation*. Resolution No. 477 of the Government of the Republic of Lithuania, dated 14 April 2003. Enforced from 19 April 2003. Official Gazette: 2003 No.37-1619.

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Overview

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Human Rights in Lithuania: 2004 Overview briefly introduces urgent issues in human rights protection and provides recommendations and proposals to address those concerns, in examining citizens' rights to political participation, respect for private life, fair trial, security and safety (police), fair and equal treatment (crime victims, victims of discrimination and other forms of intolerance) and protection of vulnerable social groups (patients, the disabled, children, women and the elderly).

This publication is meant to encourage awareness of human rights issues and promote open and constructive dialogue on these concerns as well as the responsibility of state institutions in safeguarding human rights.

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