



JOINT UPR SUBMISSION OF  
**Human Rights Monitoring Institute, SOS Children's Villages Lithuania and Center for Equality Advancement**  
LITHUANIA – MARCH 2016

This joint UPR submission is prepared by the Human Rights Monitoring Institute; SOS Children's Villages Lithuania, and the Center for Equality Advancement. **Human Rights Monitoring Institute (HRMI)** is a human rights watchdog organisation advocating for full compliance of national laws, policies and practices with international human rights obligations, and working to encourage people to exercise their rights. **SOS Children's Villages Lithuania** is a non-governmental organisation working to prevent family breakdown and caring for children who have lost parental care, or who risk losing it, to ensure that the rights of all children, in every society, are respected and fulfilled. **Center for Equality Advancement (CEA)** is a non-governmental organization aiming at changing gender stereotypes and mainstreaming women's rights, equality and inclusion in society, communities and organizations.

**National Human Rights Institution**

*Recommendations Nos 89.11-89.18*

1. The efforts to establish the National Human Rights Institution (NHRI) in line with the *Paris Principles* proved futile in Lithuania.
2. In May 2014, the working group under the Parliamentary Human Rights Committee charged with drafting a new *Law on Parliamentary Ombudsperson (PO)* was established. The new law intended to reform the Parliamentary Ombudsperson's Office to ensure that it meets the minimum standards under the *Paris Principles*. The working group consisted of two MPs, representatives of the Parliamentary Ombudspersons Office, Children Rights Ombudsperson, and two human rights non-governmental organizations: HRMI and the Lithuanian Centre for Human Rights.
3. The working group held regular meetings in May-July 2014 and February-April 2015. Although never dissolved *de jure*, the working group *de facto* seized its work after failing to reach a consensus on the final text of the law. The civil society organizations expressed their concern that the NHRI model under the draft law prepared by the Ombudspersons Office falls short of meeting the guarantees of pluralism enshrined in *Paris Principles*.
4. Although the Parliament Ombudspersons Office has expressed its official position to become the NHRI, it is questionable whether this strategic goal will be achieved in the near future. As of today, (i) the civil society organisations have no information about the current status of the draft law; (ii) no feasible timeline providing when the State estimates to complete the process of NHRI establishment has been presented to the public.

*Recommendations:*

- Finalize and adopt necessary laws providing for establishment of the NHRI in Lithuania in line with the *Paris Principles*.

## Domestic and Gender-based Violence

Recommendations Nos 88.3; 88.14; 89.21; 89.40-89.44; 90.19

### Legal framework

5. Domestic violence is still an exceptionally acute problem in Lithuania. According to the Police Department, the number of reported complaints grew in 2015 – in excess of 38,000 reports were registered during 2015 (to compare: 29,339 reports were registered in 2014; 21,615 in 2013).<sup>1</sup> Nevertheless, only less than 30% of the complaints resulted in pre-trial investigations and even less so were concluded with an indictment and moved to the trial hearing.<sup>2</sup>
6. After being adopted in 2012, the *Law on Protection against Domestic Violence* and relevant provision of the *Code of Criminal Procedure* were amended several times.<sup>3</sup> Despite that, legal loopholes inhibiting victims' access to justice remain.
7. The protection and guarantees offered by the *Law on Protection against Domestic Violence* is not *de facto* available to former spouses or long-term partners that do not share a common household. This is because practice tends to interpret "domestic environment" narrowly, taking cue from the provisions of the *Code of Criminal Procedure* that do not include former spouses or long-term partners.<sup>4</sup>
8. *Law on Protection against Domestic Violence* and the *Code of Criminal Procedure* still fail to regulate clearly victims' right to protection. In particular, it is unclear *who* (a police officer or a prosecutor) and *on what grounds* should address the court with a request to issue a protection measure.<sup>5</sup> This legal uncertainty results in some judges ordering protection measures and some refraining from their application.<sup>6</sup> The 2015 evaluation by the State Audit Office showed that in more than 50% of cases analysed, the victims were granted with no protection measures whatsoever and in 11% of these cases, they were subjected to violence repeatedly.<sup>7</sup>
9. In those rare cases when the protection measures are granted, there are no efficient sanctions for breaching them – such violation does not necessarily lead to application of other, stricter measures.<sup>8</sup> This partly stems from the fact that there are no individual victims' needs assessment and risk assessment tools put in place in Lithuania. Victims of domestic violence are treated in criminal proceedings as victims of any other crimes, without taking into account their vulnerability and special protection needs.
10. Sexual violence against women, including intimate partner violence, remains an alarming issue, which Lithuania has failed to address properly. Lithuania was identified as one of the six European countries whose legislation is far below the minimum standards set forth by the Council of Europe

<sup>1</sup> Information compiled by the Lithuanian Police Department (February 2016)

<sup>2</sup> Information compiled by the Lithuanian Police Department (February 2016)

<sup>3</sup> *Law Amending and Supplementing Articles 167, 409 of the Code of Criminal Procedure*, 2 July 2013, No. XII-502 <http://www3.lrs.lt/pls/inter3/oldsearch.preps2?a=453257&b;> *Law Amending and Supplementing Articles 140, 145, 148, 149, 150, 151, 165 of the Criminal Procedure Code*, 2 July 2013, No. XII-501, [http://www3.lrs.lt/pls/inter3/oldsearch.preps2?a=453256&b](http://www3.lrs.lt/pls/inter3/oldsearch.preps2?a=453256&b;) ; *Law Amending Article 4 of the Law on Protection against Domestic Violence*, 2 July 2013, No. XII-474, [http://www3.lrs.lt/pls/inter3/oldsearch.preps2?a=453406&b](http://www3.lrs.lt/pls/inter3/oldsearch.preps2?a=453406&b;) ; *Law Amending Articles 5, 7, 8 and 9 of the Law on Protection against Domestic Violence*, 10 April 2014, No. XII-815, Article 4, <http://www3.lrs.lt/pls/inter3/oldsearch.preps2?a=468928&b>

<sup>4</sup> Human Rights Monitoring Institute, "Victims' Rights Directive: a New Approach to Victims of Domestic Violence", 2014, p. 10-11, [https://www.hrmi.lt/uploaded/Apzvalgos/Tyrimas\\_auku-teisiu-direkt\\_1.pdf](https://www.hrmi.lt/uploaded/Apzvalgos/Tyrimas_auku-teisiu-direkt_1.pdf)

<sup>5</sup> The obligation for the perpetrator to temporarily move out of the place of residence, if he resides together with the victim and/or the obligation for the perpetrator not to approach the victim, not to communicate and not to seek contact therewith (Article 5 of the *Law on Protection against Domestic Violence*)

<sup>6</sup> Information from police officers gathered at a public round-table discussion on the implementation of the *Law on Protection against Domestic Violence*, organized by Vilnius Specialized Support Centre, 4 December 2013

<sup>7</sup> State Audit Office, Report No VA-P-40-1-8P on *Organisation of Protection against Domestic Violence*, 15 May 2015, <http://www.vkontrole.lt/failas.aspx?id=3330>

<sup>8</sup> Telephone communication with Vilnius Specialized Support Centre, 2 April 2014

*Convention on Preventing and Combating Violence against Women and Domestic Violence* (the Istanbul Convention).<sup>9</sup>

11. Three articles of *Criminal Code* outlaw sexual violence in Lithuania (rape (Article 149), sexual assault (Article 150), sexual abuse (Article 151)). The classification of the offense essentially depends on the type of sexual intercourse, use of threat, physical or psychological violence. The marital rape is not specifically included in either of the articles, so, when reported, it can fall under either one of them depending on the perpetrator's actions.
12. However, many women, especially in rural areas, are still blinded by stereotypes of marital "duties" and thus do not recognize marital rape as a violation of their human rights.<sup>10</sup> Furthermore, the reported cases of sexual violence committed by husbands are not usually regarded as serious crimes, either in public institutions or within society as a whole.<sup>11</sup> The anonymous survey of 300 women (who are married or have lived with partners) in Vilnius maternity hospital showed that 80% of respondents did not know the difference between consensual sex in marriage and marital rape; 60% experienced sexual harassment and 30% were forced into having sex with their husbands against their will.<sup>12</sup>
13. The real extent of marital rape in Lithuania remains unknown as there is no system in place allowing for collection of statistical data segregated by the type of the perpetrator (e.g. spouse, partner, former spouse, relative, acquaintance, stranger).

#### *Policy framework*

14. On 28 May 2014, the Government approved the *National Programme for the Prevention of Domestic Violence and Provision of Assistance to Victims for 2014-2020* (the Programme).<sup>13</sup> The Programme demonstrates a backward attitude towards the problem of domestic violence and fails to take into account the proposals of the women rights experts.<sup>14</sup>
15. The Programme, much like the *Law on Protection against Domestic Violence*, does not contain a definition of gender-based violence thereby ignoring the fact that women disproportionately suffer from domestic violence and failing to tailor the measures to the needs of victims. Moreover, the Programme frames domestic violence as a social exclusion issue and not a human rights one.
16. Also, the Programme is narrow in scope as it focuses solely on the reduction of the scale of domestic violence. As evidenced by recent high profile cases, women and girls are often subjected to violence outside the domestic environment as well – for example, during their first dates,<sup>15</sup> or

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<sup>9</sup> European Women's Lobby, "EWL barometer on rape in the EU 2013", June 2013, [http://www.womenlobby.org/spip.php?action=acceder\\_document&arg=2968&cle=fc9944b3d7fea2882e942bd9fdc604095eb75751&file=pdf%2Ffewl\\_barometre\\_final\\_11092013.pdf](http://www.womenlobby.org/spip.php?action=acceder_document&arg=2968&cle=fc9944b3d7fea2882e942bd9fdc604095eb75751&file=pdf%2Ffewl_barometre_final_11092013.pdf)

<sup>10</sup> Center for Equal Advancement, communication with women NGO, 29 October 2013

<sup>11</sup> European Women's Lobby, "EWL barometer on rape in the EU 2013", June 2013, [http://www.womenlobby.org/spip.php?action=acceder\\_document&arg=2968&cle=fc9944b3d7fea2882e942bd9fdc604095eb75751&file=pdf%2Ffewl\\_barometre\\_final\\_11092013.pdf](http://www.womenlobby.org/spip.php?action=acceder_document&arg=2968&cle=fc9944b3d7fea2882e942bd9fdc604095eb75751&file=pdf%2Ffewl_barometre_final_11092013.pdf).

<sup>12</sup> Inga Saukiene, "Survey: Both women and men suffer partner's sexual violence at home", *delfi.lt*, 8 August, 2012, <http://www.delfi.lt/news/daily/health/apklausa-seimoje-seksualine-partneriu-prievarta-patiria-tiek-moterys-tiek-vyrai.d?id=59452409>

<sup>13</sup> Government Resolution No. 485 *On the Adoption of the National Programme for the Prevention of Domestic Violence and Provision of Assistance to Victims for 2014-2020*, 28 May 2014, [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=471939&p\\_tr2=2](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=471939&p_tr2=2)

<sup>14</sup> *Women's Rights – Universal Human Rights* (a coalition), Letter on the implementation of the Law on Protection Against Domestic Violence, 6 October 2014, <https://www.hrmi.lt/uploaded/Documents/Viesi%20pareiskimai/Kreipimasis%20i%CC%A8%20Valstybe%CC%87s%20vadovus%202014%2010%2006.pdf>

<sup>15</sup> "Court shows mercy to teenager who killed a 13-year old after getting to know her on Facebook", *delfi.lt*, 29 November 2013, <http://www.delfi.lt/news/daily/crime/po-pazinties-per-facebook-trylikamete-nuzudes-paauglys-sulauke-teismo-malones.d?id=63411742>

from complete or relative strangers.<sup>16</sup> After the *National Strategy for the Reduction of Violence against Women* of 2006 has expired, no policy document provides for measures holistically addressing *all* forms of gender-based violence.

17. Fundamental Rights Agency's research in 2014 show that doctors are usually the first point, which domestic violence victims address.<sup>17</sup> Unfortunately, there are no guidelines or recommendations for doctors in Lithuania on how to identify the cases of domestic violence, and there is a lack of engagement of the Ministry of Health in the area of domestic violence prevention.
18. Regarding the violence against women, there is a predominant belief that women provoke violence themselves (by nagging or emotionally abusing their partners). Lack of school teachers' knowledge on issues of gender equality, gender identities, gendered regimes, cause the reproduction of stereotypic understanding of women and men and their gendered roles in a society. Limited efforts and engagement of the Ministry of Education to mainstream gender in all levels of education strengthen the generation of harmful attitudes and prejudices.

### *International obligations*

19. In its July 2014 Concluding Observations for Lithuania, the CEDAW Committee recommended speeding up the ratification of the Istanbul Convention, as well as the process of bringing national legislation in line with it.<sup>18</sup>
20. Lithuania signed the Istanbul Convention on 7 June 2013, at the same time submitting a unilateral declaration that it will apply the provisions of the Convention in accordance to the principles and norms contained in the Constitution of Lithuania.<sup>19</sup>
21. In 2014, the Ministry of Social Security and Labour established the working group to determine the prospects of Lithuania's ratification of the Convention. In April 2015, the Ministry decided to include new members in the working group.<sup>20</sup> Upon the Ministry's request, the HRMI delegated a representative to the group, but no information about the meetings, the scope and the timeline of the group's activities was ever received from the Ministry.
22. The ratification of the Istanbul Convention in Lithuania is strongly opposed by the Lithuanian Bishops' Conference, along with related organizations and politicians,<sup>21</sup> who portray this Convention as a document that would allegedly establish additional genders and legalize gender reassignment.<sup>22</sup>

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<sup>16</sup> "Girl burned alive in the trunk of a car in Panevėžys County: a chronology of events", *15min.lt*, 21 September 2013, <http://www.15min.lt/naujiena/aktualu/nusikaltimaiirnelaimes/automobilio-bagazineje-panevезio-rajone-gyva-sudeginta-mergina-ivykiu-chronologija-59-371024>; "Valdas J., who gave J. Šikšniūtė a ride to her death, liked to show off", *lytas.lt*, 18 November 2014, <http://www.lytas.lt/lietuovos-diena/kriminalai/i-mirti-j-siksniute-pavezejes-valdas-j-megdavo-pasipuikuoti.htm>

<sup>17</sup> European Union Agency for Fundamental Rights, "Violence against women: an EU-wide survey. Main results report", 5 March 2013, <http://fra.europa.eu/en/press-release/2014/violence-against-women-every-day-and-everywhere>

<sup>18</sup> UN Committee on the Elimination of Discrimination Against Women, Concluding Observations on the fifth period report of Lithuania, 18 July 2014, paragraph 23, [http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/LTU/CEDAW\\_C\\_LTU\\_CO\\_5\\_17679\\_E.docx](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/LTU/CEDAW_C_LTU_CO_5_17679_E.docx)

<sup>19</sup> "Council of Europe Convention on preventing and combating violence against women and domestic violence was signed", 7 June 2013, [http://amb.urm.lt/popup2.php?ru=bS9tX2FydGlibGUvZmlsZXMvd19hcnRyY2xlX3ByaW50LnBocA==&tmpl\\_name=m\\_article\\_print\\_vie&article\\_id=36097](http://amb.urm.lt/popup2.php?ru=bS9tX2FydGlibGUvZmlsZXMvd19hcnRyY2xlX3ByaW50LnBocA==&tmpl_name=m_article_print_vie&article_id=36097)

<sup>20</sup> Ministry of Social Security and Labour, "Request to delegate a member to the working group" No (18.3-43)SD-2391, 14 April 2015

<sup>21</sup> Ieva Urbonaitė-Vainienė, "Bishops left stunned: Lithuania seeks to redefine the concept of gender", *delfi.lt*, 9 May 2013, <http://www.delfi.lt/news/daily/lithuania/vyskupai-pribloksti-lietuvoje-siekiamo-itvirtinti-kitokia-lyties-samprata.d?id=61346125#ixzz3SCCjYpAk>

<sup>22</sup> "The Istanbul Convention, which legalizes gender reassignment, will not be put forward for ratification in the near future", *bernardinai.lt*, 11 October 2013, <http://www.bernardinai.lt/straipsnis/2013-10-11-lyties-keitima-iteisinanti-stambulo-konvencija-artimiausiu-metu-nebus-teikiama-seimui/108578>

## Recommendations:

- Introduce victim protection measures in the *Code of Criminal Procedure*, detail the grounds and conditions for their application, and sanctions for violation of protection measures;
- Introduce risk assessment and victims' needs assessment tools, issue recommendations/guidelines for prosecutors, police, judiciary on handling domestic violence cases with a focus on special needs of domestic violence victims;
- Widely consult with human rights experts and victim support services providers when developing legal and policy measures aimed at domestic violence victims;
- Introduce amendments to the *Criminal Code* explicitly criminalizing marital rape;
- Prepare and adopt a national-level strategy that would introduce the measures to combat all forms of gender-based violence;
- Build professional capacity of doctors, teachers and legal professionals at all levels of education on issues of gender equality, non-stereotyped gender roles, and the right to personal integrity;
- Ratify Council of Europe *Convention on Combating and Preventing Violence against Women and Domestic Violence*.

## Victims of Human Trafficking

Recommendations Nos 89.20; 89.41; 89.45-89.49; 90.20

23. Lithuanian *Criminal Code* contains a series of articles criminalizing the practice of human trafficking, i.e. trafficking in human beings (Article 147); exploitation for the provision of forced labour or services (Article 147(1)); taking advantage of a person's forced labour or services (Article 147(2)); purchase or sale of a child (Article 157). However, certain of these forms of human trafficking are treated as minor offenses: crimes such as the exploitation of a person for the provision of forced labour or services, or taking advantage of a person's forced labour or services, are only viewed as minor offenses, punishable by no more than 2 to 3 years in prison.
24. Unfortunately, Lithuania still lacks proper legal regulation of certain aspects of human trafficking related to the sexual exploitation of children and adults; accordingly, this leads to human trafficking being classified as a much less serious offense in practice.
25. The Crimes and Misdemeanours against Morality chapter of the *Criminal Code* also makes it criminal to gain profit from another person's prostitutions (Article 307) and to involve other persons in prostitution (Article 308). These two crimes are not grouped together with offenses against human liberty and are not deemed to be human trafficking offenses, but in reality, the acts for which people are prosecuted under these articles essentially satisfy the elements of human trafficking.
26. Article 307 on gaining profit from another person's prostitution criminalizes the receipt of income from another person's prostitution or from the procurement of prostitution, as well as the organization or being in charge of prostitution, or the transportation of a person with his/her consent for prostitution; it is also a crime to profit from the prostitution of a minor, or to organize or be in charge of the prostitution of a minor, or to otherwise exploit minors for the purposes of prostitution.<sup>23</sup>
27. Article 308 of the *Criminal Code* criminalizes involving another person in prostitution; the involvement in prostitution of a person who is dependent on the perpetrator financially, is subordinate to him/her in office or otherwise dependent on him/her, using force or mental abuse or deception; and the recruitment of a minor, forcing or otherwise involving him/her in prostitution.
28. The offence provided for in this Article, has all three elements necessary for establishing the offence of trafficking: actions – transfer of a person; means/methods – exploiting the dependencies

<sup>23</sup> *Criminal Code*, 26 September 2000, No. VIII-1968, Article 307, [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=493995](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=493995)

of a person, using force or mental abuse or deception; and purpose – the above actions are carried out for the purposes of sexual exploitation. Unfortunately, the punishment for what in practice amounts to human trafficking, when the actions are classified under this Article, may not even involve incarceration, since legally this is not deemed to be human trafficking.

29. Furthermore, it should be noted that, even in the absence of any coercive measures against children, international standards provide that an agreement for the exploitation of a child, that is, a person under 18 years of age, is recognized as human trafficking even if no coercive measures were used against them.<sup>24</sup>
30. It is clear that under the current legal regime it is possible to improperly classify certain human trafficking offenses, with these crimes attracting more lenient sanctions as a result. These crimes are not reflected in official human trafficking statistics, and their victims are not able to enjoy all of the rights and guarantees they are entitled to.

#### **Recommendations:**

- Remove from the *Criminal Code* the provision criminalizing profiting from a minor's prostitution (Article 307, paragraph 3) and the provision criminalizing involving another person into prostitution (Article 308); instead, these offences should be classified as trafficking in human beings;
- Increase penalties for the crimes of exploitation for the purposes of forced labour or services, as well as for making use of a person's forced labour or services;
- Determine whether a free consent truly exists in the cases of profiting from the prostitution of another (Article 307, paragraph 1 and 2) – especially in cases where earnings are handed over to a third party;
- Raise the qualifications of judges and prosecutors in the field of combating trafficking in human beings; organize training on the particulars of communication with the victim, his/her rights and guarantees in criminal proceedings; issue recommendations/guidelines for prosecutors, police, judiciary on handling human trafficking cases with a focus on special needs of the victims;
- Introduce victims' needs assessment tool and ensure effective assistance for victims of trafficking in human beings.

#### **Child Victims and Witnesses of Crimes, including Sexual Crimes**

##### *Recommendations No. 88.12, 89.20*

31. In 2015, 2165 children became victims of crime, with 1042 falling victim to physical violence, 111 to sexual abuse, 103 to mental abuse and 13 to neglect.<sup>25</sup> 48% suffered from someone they knew, 34% – from parents, caretakers or close relatives, and 18% – from unknown people.
32. The overall number of child victims is decreasing every year; the statistics suggest that children can feel relatively safer in public – that is, on the street – but not necessarily at school or at home, i.e. data indicate that children are least safe and most prone to becoming victims in close and domestic environment.
33. However, according to the general domestic violence statistics, children comprise only 6 to 7% of all domestic violence victims.<sup>26</sup> These numbers hardly reflect the actual prevalence of domestic violence against children. Children themselves are not always capable of recognizing violence against them; they also lack information where to turn for help, as well as how to safely report the

<sup>24</sup> Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, Art. 2(5), <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:EN:PDF>

<sup>25</sup> 2015 data from the Departmental Register of Criminal Offences, Ministry of Interior, <http://www.ird.it/en/statistics-report/?rt=1>

<sup>26</sup> Data received from Police Department in response to information request, 24 February 2016

- abuse from their parents or other close relatives. For example, out of the 292 complaints examined by the Child Rights Ombudsperson in 2014, only 6 were submitted by children themselves.
34. There is a lack of national up-to-date victimological surveys able to identify the real prevalence of violence and abuse against children, including sexual abuse. The analysis of various studies and surveys suggests that in Europe 1 in 5 children become victims to sexual abuse.<sup>27</sup> However, only 111 cases in 2015, 88 – in 2014, and 84 – in 2013 have been officially registered by the Lithuanian law enforcement authorities.
  35. 2014 and 2015 saw the transposition of the EU victims' rights legislation<sup>28</sup> into national law, toughening punishments for sexual crimes against children and introducing protection measures for child witnesses and victims, such as attending court hearings only in exceptional cases, making audio or video recordings of statements, giving evidence using communications technologies without being present in the courtroom, not participating in more than one interview during criminal investigation, and other measures.
  36. However, in practice it often happens that the child is "unofficially" interviewed several times before the so-called "official" interview.<sup>29</sup> Furthermore, during the proceedings the child might be interviewed by more than one person about the events – for example, a Child Rights Protection Service specialist, a school psychologist and/or a forensic medical expert.
  37. The average number of times children have to participate in procedures during criminal investigation where they recall the abuse suffered stands at 3.5.<sup>30</sup> The more frequently a child is questioned, the greater the risk that the child will suffer repeat trauma or change the evidence. Back in 2013, about one third of child victims were still called to attend court hearings, with 6.8 persons on average present at the examination during the proceedings – most often the judge, the prosecutor, the secretary, the suspect's counsel, the suspect him- or herself and/or a Child Rights Protection Service specialist.<sup>31</sup>
  38. In this context, it is important to stress that in Lithuania, there is no effective, nationally applicable multiagency cooperation mechanism and uniform procedures to prevent and respond to child rights abuses. The current regulation is vague and outdated because the main child rights protection law has not been fully revised and updated since its adoption in 1996.
  39. The child rights protection system in Lithuania is decentralised, and the level of protection of children as well as the practices of inter-agency cooperation varies across municipalities. The Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour has very limited functions and no direct authority over the local Child Rights Protection Services. This results in fragmented, poorly coordinated practices, where the interventions of child rights services are chronically belated and ineffective. The Services also lack uniform and efficient, practical tools to

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<sup>27</sup> Council of Europe's information,

[http://www.coe.int/t/dg3/children/1in5/Source/!%20in%20%20fact%20argumentation%20\\_en.pdf](http://www.coe.int/t/dg3/children/1in5/Source/!%20in%20%20fact%20argumentation%20_en.pdf)

<sup>28</sup> Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32011L0036&from=EN>; Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA, <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32011L0093&from=EN>; Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32012L0029&from=EN>

<sup>29</sup> Consultation with experts from the "Child Support Centre" on 13 January 2015

<sup>30</sup> Child Support Centre, national report "The Protection of Child Victims in Lithuania", 2013,

<http://www.vaikystebesmurto.lt/sites/paramosvaikamscentras/media/images/Leidiniai/nacional%20report%20lt%20fr%20project.pdf>

<sup>31</sup> Child Support Centre, national report "The Protection of Child Victims in Lithuania", 2013,

<http://www.vaikystebesmurto.lt/sites/paramosvaikamscentras/media/images/Leidiniai/nacional%20report%20lt%20fr%20project.pdf>

assess situations and respond to the needs of children depending on the child's individual circumstances.

#### **Recommendations:**

- Create an effective mechanism allowing children to safely report violence or any other crime against them or infringements of their rights;
- Improve the collection, analysis and publication of data pertaining to violence, sexual abuse and other crimes against children;
- Ensure that the child's rights and interests are being protected during criminal proceedings, by introducing good practices and providing capacity building and sensitivity trainings to officers, judges and other professionals;
- Engage in the prevention of violence and other crimes against children, teaching children to recognise the abuse and get help, educate and encourage the society as well as professionals to report cases of violence or other mistreatment of children;
- Establish a nationally applicable multi-agency cooperation mechanism and procedures for prevention and response to child rights abuses;
- Establish uniform procedures, tools and practices, enabling Child Rights Protection Services to correctly assess and respond to the needs of children, taking into account individual circumstances of every case;
- Invest into capacity building of Child Rights Protection Services specialists through regular knowledge and skills-oriented trainings.

#### **Corporal Punishment**

##### *Recommendation No 88.37*

40. Children's legal protection against violence was reinforced after the *Law on Protection against Domestic Violence* came into force back in 2011. However, the overall legal framework does not ensure a comprehensive protection of all children against all forms of violence, including corporal punishment.
41. Since the state does not have a clear stance on corporal punishment, society continues tolerating physical abuse as a means of "disciplining" children. With such attitudes being prevalent, it is difficult to effectively prevent violence against children and educate the public on non-violent methods for bringing up children.
42. The draft laws that would have prohibited corporal punishment in all environments have been rejected twice, in 2010 and 2013. The prohibition was again proposed in 2014 in the draft *Law on the Fundamentals of Child Rights Protection*, which is to replace the main law on the protection of the rights of the child currently in force.
43. The draft law aims to establish a prohibition against all forms of violence, including corporal punishment, and to place specialists under an imperative duty to report signs of violence against children. In April 2015, the draft law was approved for parliamentary considerations and since then it is being debated in parliamentary committees.

#### **Recommendations:**

- Prohibit all forms of violence against children in all settings, including corporal punishment, and provide for measures to enforce the prohibition;
- Invest in programmes accessible to all parents for introducing positive parenting methods.



## Protection of Children – Alternative Care

Recommendations Nos 88.13; 89.19

44. Lithuania has an estimated population of 2.92 million as of 2014, of which children constitute 19.4% (569.683 children aged 0–17). Since 2009, the population has decreased by 7.6%, whereas the number of children deprived of parental care and families at social risk has not decreased proportionally.
45. 1.7% of children in Lithuania were deprived of parental care and constituted 9684 children at the end of 2014. We continue to have a large number of cases of placement of children in care institutions per year: 2010 – 1265, 2011 – 1354, 2012 – 1186, 2013 – 1194, 2014 – 961. It is extremely concerning that number of children under 3 years of age, placed in institutional care per year, is not decreasing and remains rather stable: 2011 – 344, 2012 – 316, 2013 – 288, 2014 – 358.<sup>32</sup>
46. The *Action Plan on Transition from Institutional Care to Family and Community-Based Services for People with Disabilities and Children Deprived of Parental Care, 2014-2020* (De-I Action Plan) was approved by the Minister of Social Security and Labour in 2014.<sup>33</sup> It includes measures of transition from institutional to family-based and community-based services, adequate environment and conditions for strengthening biological families and provision of family-based care.
47. However, Lithuania is behind the implementation of De-I Action Plan – no public tenders in the field of provision of community-based services were announced since 2014. Another concern is a misleading understanding of the De-I process on political level – it tends to be limited to closing down institutions rather than the process of developing various community-based services in order to eliminate the need for institutionalized care. Currently, the only signs of the “reform” may be seen in the area of transformation of state-run children homes (the other part of children’s homes is run by municipalities and NGOs), i.e. children from 3 big residential facilities (in Marijampole, Pabrade and Panevezys) were moved to live into flats in the community.
48. According to the State Audit Office report of 31 January 2014, the current childcare system is inefficient and fails to ensure the best interests of the child.<sup>34</sup> The childcare reform was officially started in 2007, but it is not finished up until now, except for the development of infrastructure of residential facilities (15 million Euro were spent for construction, expansion and renovation of residential childcare institutions infrastructure). The majority of childcare system reform results were planned to be achieved by 2013; however, due to the poor planning and implementation, the results were not obtained and the reform implementation deadline was postponed for seventeen years (until 2030).
49. In July 2015, the *Civil Code* was amended with the prohibition to place 0-3 year-old children in institutions for a longer than 3 months period; length of temporal guardianship of children in care reduced to 1 year. The amendments will come into force on 1 January 2017. However, the preparation to implement these legal changes has not made any visible progress yet. Lithuanian childcare system is lacking professional foster parents, who could accept children for short-term or long-term foster care at any time of the day or would be prepared and willing to take care of infants until the family is reunited or adoptive parents are found. There are no other short-term social services as an alternative.

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<sup>32</sup> State Child Right Protection and Adoption Service under the Ministry of Social Security and Labour, Annual report of 2014; [http://vaikoteises.lt/media/file/ataskaitos/2014%20M\\_%20VEIKLOS%20ATASKAITA%202015-03-18.pdf](http://vaikoteises.lt/media/file/ataskaitos/2014%20M_%20VEIKLOS%20ATASKAITA%202015-03-18.pdf)

<sup>33</sup> Minister of Social Security and Labour, Order approving *the Action Plan on Transition from Institutional Care to Family and Community-Based Services for People with Disabilities and Children Deprived of Parental Care, 2014-2020*, No A1-83, 14 February 2014, <https://www.e-tar.lt/portal/lt/legalAct/c90d41f097de11e3bdd0a9c9ad8ce1bf>

<sup>34</sup> State Audit Office, report “Does the Child Care System Meet the Best Interests of Children in Care”, 31 January 2014; [http://www.vkontrole.lt/audito\\_ataskaitos\\_en.aspx?tipas=15](http://www.vkontrole.lt/audito_ataskaitos_en.aspx?tipas=15)

50. Overall, the general situation shows that a complete package of community based social services for children and families are lacking all over Lithuania.

#### *Recommendations:*

- Give priority to timely, competent and effective work with families and their children, providing comprehensive assistance to caregivers, developing alternative forms of care and educating the public about them;
- With regard to childcare reform, priority must be given to addressing the issue of children under the age of 3, i.e. stopping *de facto* institutionalization of children under the age of 3;
- Ensure that financial resources are firmly allocated to the reform of the care system, monitoring its effectiveness as well as the whole deinstitutionalization process.

#### **Legal Capacity**

##### *Recommendations Nos 89.32; 89.33*

51. On 1 January 2016, a legal reform of legal incapacity regulation came into force. The new legal amendments fundamentally modified the law in relation to limited capacity and provided for two new possibilities – supported decision-making and advance directives (living wills); the amendments also provided for a regular review of the status of a person's incapacity.<sup>35</sup>
52. Contrary to the requirements of the *UN Convention on the Rights of Persons with Disabilities*, the amendments adopted did not actually abolish absolute incapacity. The amendments abolished a possibility to declare a person incapable in all aspects of life with a single court order, without any differentiation. However, Parliament left open the possibility of declaring a person incapable "in a particular area" – in other words, the transfer of full decision-making authority still exists, limited to "a particular area". For example, the *Civil Code* explicitly provides that persons may be prohibited from marrying if they have been declared legally incapable in this regard.<sup>36</sup> Moreover, it is not explicitly forbidden to declare a person legally incapable in all areas of life, without specifying those.
53. These regulations are not in line with the provisions of the *UN Convention on the Rights of Persons with Disabilities*, which Lithuania ratified in 2010 and which obliges to ensure that not a single person is ever fully deprived of his or her ability to make decisions.

#### *Recommendations:*

- Abolish legal incapacity completely;
- Provide training for judges, prosecutors, lawyers, notaries, bailiffs, municipality officials on the standards of the CRPD regarding the legal incapacity; issue recommendations/guidelines on the issue.

<sup>35</sup> *Law Amending the Civil Code*, 26 March 2015, No. XII-1566, [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=1020888](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=1020888);  
*Law Amending the Code of Civil Procedure*, 26 March 2015, No. XII-1567,  
[http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=1020891&p\\_tr2=2](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=1020891&p_tr2=2)

<sup>36</sup> *Civil Code*, 18 July 2000, No. VIII-1864, Article 3.15, <https://www.e-tar.lt/portal/lt/legalAct/TAR.8A39C83848CB/hgTIMKGKpM>