

Human Rights in Lithuania 2018 – 2019



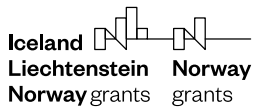
Human Rights in Lithuania 2018 – 2019

Overview

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The Human Rights Monitoring Institute (HRMI) is an independent, nongovernmental, non-profit organisation, comprised of human rights professionals – lawyers, social and political science experts. Our mission is to contribute to the development of an open and democratic society by ensuring human rights and freedoms.

HRMI monitors the human rights situation in Lithuania, participates in the legislative process, conducts research, engages in advocacy, drafts legislative proposals, submits alternative reports to international human rights supervisory bodies, takes up litigation in strategic human rights cases, and organises training relating to human rights.

The main areas of focus of HRMI are crime victims' rights, prohibition of all types of discrimination, privacy and data protection, freedom of speech, and ensuring human rights in the field of mental health.

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About Us



While human rights were one of the key topics during the restoration of independence of Lithuania, it ended up at the margins of the political agenda during the past three decades. To be more precise, they were gradually pushed there.

Matters of human rights are constantly permeating many political, social, economic, and cultural processes, as can be clearly seen in this overview of the Human Rights Monitoring Institute. However, the summaries of almost all the discussed topics repeat the same conclusion: insufficient attention is paid to them.

Purposefully downplaying or ignoring matters of human rights leads to that, in the event of crises or disasters, it is stated, without any scruples, that human rights can wait until the situation is normalised.

Human rights activists are presented as unable to understand the complex challenges of reality or see the complexity of problems. They are viewed as idealists without a basis for reality, while their addressed issues are trivialised, presented in an absurd background, or their relevance is negated entirely.

Cases of recent years discussed in the overview show that even in times of economic growth and political stability, important aspects of human rights and freedoms are conveniently ignored, certain decisions that receive criticism and remarks from international organisations are not implemented, and past violations are repeated.

Why are we facing such frivolous attitude and even disrespect toward human rights? Our biggest obstacle is still the fact that it has become commonplace in society to conveniently choose topics that are important to the majority, while forgetting the interests and concerns of smaller groups.

Cases of discrimination based on gender, sexual orientation, age, disability, or other theoretical differences demonstrate the relevance of this tendency. Exclusion applies not only to economic and social matters, but also to the actualisation of human rights.

Ensuring the rights of a smaller group of people is understood as a disruption to the interests of the majority, and this alleged contradiction is constantly fuelled by groups of reactionary political forces or hate-driven commentators. Granting rights to one group is often interpreted as a loss of rights for the opposing group.

Another significant concern is that certain topics are simply not visible in the background of human rights issues. They are not recognised as human rights. The topics of freedom of expression, data protection or even the right to health are still viewed as irrelevant and not particularly important in everyday life.

For many people, the relevance of these rights only makes sense when they face individual violations, or when they fail to exercise their rights or receive state-guaranteed services.

Decisions of the government in recent years (demonstrating the same trends during the coronavirus-induced quarantine period) have shown that freedom of expression, informing the public, and the possibility to criticise are not viewed as important aspects of interaction between the government and society.

Attempts are being made to legitimise restrictions on the freedom of information and criticism by using arguments such as threat to national security, combating misinformation and even protection of the government. In addition, the need to abandon discriminatory provisions of the Law on the Protection of Minors against the Detrimental Effect of Public Information prohibiting to talk about same-sex relationships is still ignored.

Ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence is still pending in Lithuania. It should be noted that matters concerning violence are usually discussed in the public by trivialising and desensitising the issue of violence or by transferring it to the category of punishment and demanding violence-based revenge.

The matter of sex education is conveniently not addressed in the education system, leaving not only the choice of content but also the choice of fundamental questions of the topic to the teachers themselves.

Discrimination manifests not only in refusal to hire, provide services, or provide equal treatment, but also in individual hate crimes. Hate crimes are usually directed towards people of other sexual orientations, nationalities, and ethnic backgrounds, who are still unable to feel safe in declaring their identity publicly.

One of the problems that is not very visible in the media, but which has been attracting international criticism for a number of years now, is the living conditions of convicts. Reports of 2011, 2014 and 2018 criticise Lithuania for its insufficient living spaces allocated to prisoners, violence experienced by prisoners and officials, and health care quality.

Institutional childcare reform is also performed at an insufficient pace. Efforts to establish community-based orphanages are also faced with public resistance. The most prominent example of this is the outrage of the residents of Biržai and strict refusal to accept children from childcare homes into their community.

Moreover, people with mental, intellectual, and psychosocial disabilities are stigmatised by the public, and are still viewed as one of the most undesirable neighbours. It should also be noted that such attitudes are influenced by state and institutional treatment of mental health disorders, as well as cases of involuntary hospitalisation and other applied restrictions violating human rights.

Rapid increase in the number of labour migrants has also opened gaps in the migration and working conditions monitoring system. Even if reports of violations or requests for help in cases of exploitation are received, the system responds slowly and cannot ensure effective solutions.

Refugees and asylum seekers face similar indifference and ineffective solutions. Even commitments to accept a certain number of people in the context of the refugee crisis in the European Union are implemented in a rather erratic manner by the system which has been designed to ensure successful acceptance and integration processes.

The crisis caused by the coronavirus and an increased focus on the health care system emphasised the fact that there are many inequalities and discrepancies in this system, which are revealed through statistics showing the mortality of individual groups and its causes.

In the field of mental health, there is a number of concerns regarding the mental health of children and providing them with support. Transition from institutional to community service infrastructure is stalled for people with psychosocial or intellectual disabilities. In addition, there is a lack of focus on the prevention of suicide and other self-harming behaviours, as well as the integration of support into health, education, and social protection.

This brief panorama confirms that the subject of human rights has lost only its external visibility and popularity during the past thirty years. It is encountered daily not only by experts writing such overviews, but also by employees working in the mentioned individual fields, public service developers and their customers.

Recently, we have been discussing a lot about people's happiness, their trust in the state, institutions, and national security. All these elements should be addressed by bringing human rights issues to the forefront and making them a part of actual strategic solutions, rather than using them to cause politicised clashes, public incitement, or incitement to hatred.

All in all, I would like to wish insight for politicians, flexibility for bureaucrats, and a lot of patience for those who see and understand the context of human rights in the fundamental matters of the state.

Paulius Gritėnas,

Political reviewer, philosopher, Board Member of Human Rights Monitoring Institute

Foreword by the Ambassador of the Kingdom of Norway



Dear reader,

The overview of human rights in Lithuania you are about to read offers an important perspective on the Lithuanian society. It provides a comprehensive assessment of progress towards practical implementation of the human rights principles across various sectors. Whereas some areas prove to be more challenging than others, it is important to keep in mind that they represent a cohesive whole.

Human rights are interdependent and interrelated. If you take away one set of rights, the remaining will not be as strong. It is our joint responsibility to safeguard them across all policy fields, providing uniform and consistent protection to individual rights.

It is particularly telling how we treat vulnerable and marginalized groups. Inclusive citizenship, where individuals enjoy equal opportunities and rights, is fundamental in a modern democracy. Norway strives to achieve the highest human rights standards at home. It is also an integral part of Norwegian foreign policy, in the same way as peace and mediation. We seek to advocate and defend human rights in international fora and in our bilateral relations with other countries.

It is not a coincidence, that strengthening human rights has been a major priority for Norway's cooperation with Lithuania for the last fifteen years. Norway Grants and the EEA Grants are tools through which we have contributed towards positive change in this area, particularly through supporting and empowering non-governmental organizations.

Strong, active and capable civil society is a prerequisite for viable democracy. The watchdog function of the non-governmental sector and close cooperation with state institutions in seeking out common solutions are not contradictory. Engaging in discussions that raise critical questions stimulates reflection and may give rise to innovative ideas. NGOs also provide accessible and affordable services help reduce inequalities and exclusion. This has direct implications on the human rights standards in any country.

Norway will maintain its strong support of the human rights ideal, principles of good governance, as well as social and economic inclusion. We look forward to cooperating with our Lithuanian partners advancing these goals within the framework of the EEA Grants and Norway Grants and beyond.

Wishing you an informative and thought-provoking reading,

Karsten Klepsvik
Ambassador of Norway to Lithuania

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Acknowledgement

Summary

Human Rights in Lithuania 2018–2019 overviews the implementation, challenges and positive changes in the essential civil rights and freedoms in Lithuania in 2018–2019. This overview also, for the first time, pays particular attention to the right to health and its implementation.

Freedoms of Expression, Assembly, and Religion

The 2018–2019 period was marked by attempts of public authorities to restrict the freedom of expression on various grounds such as national security, fight against disinformation or protection of authority. On the other hand, both the civil society and the media have responded to such attempts actively and in a focused manner which helped prevent the use of law to impose any unjustified restrictions on the freedom of expression. At the same time, the discriminatory provision of the Law on the Protection of Minors from the Detrimental Effects of Public Information prohibiting the dissemination of information on same-sex marriages still remains. It is advisable to address this issue by amending the law and repealing the provision.

No systemic issues relating to the freedom of assembly or restrictions to organise peaceful assembly have been identified, however, certain unjustified and disproportionate actions of law enforcement officers in terms of assembly participants raise some concern. It is recommended to organise training for law enforcement officers on the guarantees of freedom of assembly enshrined in the Constitution and the Law on Assemblies, as well as on the international standards in the field of freedom of assembly, particularly those that are formed by the European Court of Human Rights (ECHR). It is important to ensure that freedom of assembly remains an effective means of participating in the public debate on issues of public concern.

In Lithuania, implementation of the provisions on religious freedom is usually limited to ensuring the freedom of individual and privately practised religion and belief, ignoring the fact that religion is a social phenomenon characterised by community and public practices, and constitutional protection should also be guaranteed for these aspects of religious life. A particularly problematic perception of the freedom of collective religion and belief in Lithuania was revealed by public discussions on granting state recognition status to the ancient Baltic faith community Romuva. During the overviewed period, discussions were once again raised on the limits of freedom of religion and expression (in the case of Zero Live Show advertisement). In terms of religious freedom, media has been mostly covering the daily lives of traditional religious communities. Meanwhile, the representation of the activities of religious minorities remains problematic in the Lithuanian media. These groups usually attracted attention only due to exotic or criminal reasons.

Personal Data Protection

During the overviewed period, particular emphasis was placed on data protection and privacy matters, especially those relating to stricter legal regulation. The General Data Protection Regulation and the updated version of the Law on Personal Data Protection extended the powers of supervisory authorities and encouraged them to be more active in communicating their activities, which contributed to growing awareness among the population. However, a „turning point“ has not yet been reached and ensuring the protection of personal data in the general public, including public authorities, is still often seen as a standard bureaucratic requirement instead of a prerequisite for sustainable technological development and public sector governance processes, as well as one of the fundamental human rights. This is also illustrated by avoidance to resolve long-standing issues such as universal storage of traffic data and cyber security gaps in public systems that collect data on almost all Lithuanian residents. There was also a tendency to use the General Data Protection Regulation during the overviewed period, often without detailing the content of its specific provisions as a kind of cover-up in order to restrict the right of the public and the media to access information on the activities of public authorities.

Right to Private and Family Life

In Lithuania, it is still not possible to establish a partnership between people of both the same and different genders. The legislators also did not take any initiatives to address this issue during the period under review. On the contrary, an amendment to the Civil Code was adopted by the Seimas in 2018, adding the principle of complementarity of paternity and maternity to the list of principles on which the legal regulation of family relations is based. The emergence of such a rule of law is clearly discriminatory in that it discriminates against same-sex families with children. On the other hand, the Constitutional Court adopted a ruling in 2019, which clearly emphasised that the constitutional concept of family is neutral in terms of gender. However, the court made a distinction between marital and non-marital family. According to Article 38(3) of the Constitution, a marital family is formed between a man and a woman and, according to the court, a different interpretation of marriage would require an amendment to the Constitution. Nevertheless, non-marital family relations may also be formed both between the opposite- and same-sex couples. Under the Constitution, all non-marital couples living as a family are entitled to legal protection. Thus, following the ruling adopted by the Constitutional Court, there are currently no formal obstacles to the adoption of a regulatory framework for the legal relations (personal non-property and property) of partnerships.

Lithuania has not yet adopted any law on reproductive health, regulating matters relating to family planning and reproductive health. Although the number of abortions is declining every year, about 6 percent of them are performed on girls under 19 years of age due to the unavailability of contraception, as well as lack of information and proper sex education. Studies show that contraceptives are not reimbursed. Lithuanian women lack state-sponsored sources of information about various, and especially modern, methods of contraception. Studies have shown that the General Program for Health, Sexual Education and Family Planning approved by the Ministry of Education and Science is ineffective, and its implementation mostly depends on the preparation and qualifications of teachers. Teachers and public health specialists fear that prematurely educating adolescents about contraceptives will encourage them to be sexually active, therefore, emphasis is placed on abstinence-based education by paying particular attention on the sex education of girls and ignoring the fact that boys are often the initiators of sexual relations. A study conducted in 2018 by the Lithuanian Society of the Disabled showed that women and girls with disabilities who wish to start a family face discrimination. About a tenth of respondents said that they experienced such discrimination when finding a partner, starting a family, and having children.

Prohibition of Discrimination

In Lithuania, age („too old“ or „too young“) is still perceived as one of the biggest obstacles to full participation in the labour market. Most of the complaints about possible age discrimination investigated in 2018 by the Office of the Equal Opportunities Ombudsperson (OEOO) were related to employment relations. A fifth of such complaints was related to the activities of state and municipal institutions and bodies, and every seventh complaint was related to the protection of consumer rights. The implementation of the right of older people in Lithuania (65 years and older) to an adequate minimum income has deteriorated significantly: between 2010 and 2018, the number of people of this age group living below the poverty line increased almost four-fold. In terms of implementation of the right of access to health care services, older people were at a significant disadvantage compared to younger people. However, the efforts of various organisations and institutions to strengthen the prevention of all forms of discrimination and to educate the public on equality and diversity have intensified during the period under review. This may be one of the reasons why Lithuanians rated the state's efforts to combat all forms of discrimination better in 2019 than in 2015.

Positive changes in the protection of the human rights of lesbian, gay, bisexual, and transgender (LGBT) people have been determined by the decisions of national courts and improving attitudes of the Lithuanian society. In 2019, the Constitutional Court stated that the Constitution prohibits discrimination on the grounds of sexual orientation and gender identity, and same-sex couples are equally entitled to the protection of family life guaranteed by the basic law of the state. National

courts have made it possible for transgender people to change their identity documents, and this possibility has already been exercised by almost 30 people. Although law enforcement response to hate crimes and hate speech against the LGBT community remains ineffective, the society's and media's growing intolerance of such incidents is a positive development. In January of 2020, the European Court of Human Rights stated in the case „Beizaras and Levickas v. Lithuania” that there is no effective legal remedy in Lithuania to combat homophobic hate speech – it is recommended to improve the practice of law enforcement authorities and national courts. During the period under review, state authorities did not apply the provisions of the Law on the Protection of Minors against the Detrimental Effect of Public Information in order to restrict the freedom of expression of members of the LGBT community. However, the existence of this discriminatory provision in the law has provided room for various manipulations in an attempt to censor positive public information about LGBT persons. Although public opinion polls and public events of the LGBT community (such as the Baltic Pride march) showed that our society is becoming more liberal, the country's politicians have not taken any active steps to improve the legal situation of LGBT persons.

Gender inequality in Lithuania remains a relevant problem that has not been systematically addressed. Women make up a minority in key decision-making bodies, particularly in the decision-making and control bodies of the country's largest business companies. Although Lithuanian women are more active in the labour market and have better career prospects compared to an average European woman, this does not eliminate the financial inequality that is more pronounced in Lithuania than in the rest of the European Union, especially among people with children. Time spent on unpaid domestic work at home and poor conditions for balancing motherhood (fatherhood) and work contribute to lower wages for women and the risk of poverty in retirement or after losing their partner. Attempts to amend the childcare benefit policy that increases gender inequality have been rejected by the Seimas. Nevertheless, to encourage the participation of both parents in the upbringing of their children, a two-month non-transferable right to parental leave for both parents should enter into force in Lithuania in accordance with the EU Directive. Sexist and patriarchal attitudes in terms of gender remain widespread in our society. Investigations on possible discrimination on the grounds of gender comprise the majority of OEOO investigations. Most of them are carried out in the field of labour relations and consumer rights protection. During these investigations, measures to promote gender equality at the state level are planned and implemented in a fragmented and formal manner, and possibly in a non-transparent way.

Discrimination against people with disabilities is still widespread in Lithuania. According to the data of 2018 collected by OEOO, cases of discrimination on the grounds of disability were more common in the field of activities of state and municipal institutions and establishments. In the same year, a survey of women and girls conducted by the Lithuanian Society of the Disabled revealed that 41 percent of women and 53 percent of girls with disabilities claim to be discriminated against. On the other hand, positive developments were also observed during the period under review. In 2018, significant amendments to the Law on Public Information entered into force, prohibiting incitement to hatred, bullying, discrimination, violence against and harsh treatment of a group of people or a person belonging to it, including disability as one of the possible grounds for such actions. Since the summer of 2019, the Commission for the Monitoring of the Rights of Persons with Disabilities, established under the OEOO, has been monitoring the implementation of the UN Convention on the Rights of Persons with Disabilities in Lithuania. Amendments to the Law on Elections to the Seimas, which better ensure the rights of voters with disabilities during elections, were initiated at the end of 2019 and adopted at the beginning of 2020.

The state-established differentiation of religious communities into traditional, other, and state-recognised religious communities creates preconditions for religious discrimination. Data from social surveys conducted in 2018–2019 allows to say that the Lithuanian population does not believe that discrimination on the grounds of religion and belief is widespread in the country. At the same time, Lithuanians are expressing negative attitudes towards Muslims, Jehovah's Witnesses, Hindus, and Buddhists. Such research results show that environment in Lithuania is favourable for the formation of discrimination on the grounds of religion and belief. Complaints received in 2018 – 2019 by OEOO regarding religious discrimination remain among the fewest that are received by this office. This situation most likely reflects the distrust of citizens in public authorities rather than true discrimination regarding the religious situation in Lithuania.

The changes in recent years in the field of discrimination on the grounds of national and ethnic origin can be assessed in two ways. On the one hand, there are visible efforts of individual political parties and institutions to draft a new law on national minorities, which expired in 2010, as well as to promote intercultural dialogue and address matters relating to the promotion of the history of national minorities. The Government's decision to establish a commission to examine the issues of national minorities is to be welcomed. Significant changes are also observed in the field of Roma integration, especially in education and in projects focusing on the inclusion of Roma living in the Kirtimai settlement. On the other hand, there is a lack of inter-institutional cooperation and strategic determination in solving the problems relevant to national minorities. Individual incidents and studies show that members of national and ethnic minorities face discrimination and feelings of insecurity in everyday situations. There is lack of an effective system for combating hate crime. It is therefore important to further develop not only the competence of law enforcement officers to detect hate crimes, but also preventive initiatives to reduce structural barriers to the integration of national and ethnic minorities and decrease exclusion.

Hate crimes are still rather latent in Lithuania. Public opinion polls and the use of hate speech observed on the Internet raise doubts as to whether only a few dozen hate-motivated crimes registered by the law enforcement each year actually reflect the real situation. A qualitative study of communities vulnerable to experiencing hate crimes commissioned by the Ministry of the Interior during the period under review has confirmed this conclusion. This is also emphasised by the international human rights organisations which are calling for measures to promote and facilitate the reporting of hate speech and hate crimes, and for improving the qualifications of law enforcement officers in order to enable them to investigate such crimes more effectively. During 2018-2019, several cases of hate crimes were classified only as violations of public order, and investigation of the hate motive was launched only after the media and non-governmental organisations began to talk about it. Nevertheless, there were also some positive initiatives of public authorities during the period under review: a project is underway to train several hundred law enforcement officers (police officers, prosecutors and judges) on how to handle hate crimes; newly appointed Commissioner General of Police promised to pay more attention to the investigation of such crimes; the Ministry of the Interior took the necessary steps to form an inter-institutional working group for effective response to hate crimes.

Right to a Fair Trial

The European Union has been raising the standards for the rights of suspects and accused persons, and their legal regulation in Lithuania has also been improving accordingly. New legal provisions were adopted during the reviewed period concerning the obligations to implement three EU directives: Directive on the presumption of innocence, Directive on legal aid for suspects, and Directive on the procedural safeguards for children who are suspects. However, it is important to ensure that all rights and guarantees of suspects are not only formal but effective. The so-called corruption case of judges and lawyers raised questions about the excessive use of physical restraints and, consequently, the overall guarantee of the presumption of innocence. The system of state-guaranteed legal aid received a lot of criticism during the reviewed period, and the issue of insufficient quality of state-paid legal services has not yet been resolved. Lack of financial resources, well-prepared informational material and clear procedures means that suspects' right to information and translation is not always properly guaranteed. Therefore, in most areas, it remains important to implement measures to close the gap between formal standards and their enforcement in practice.

In 2018-2019, 81 103 persons who suffered physical, material, or psychological damage as a result of criminal offences were registered. In order to better ensure the rights of victims of crime, changes have been made during the reviewed period to protect minors from negative experiences in criminal proceedings. The possibilities for legal aid for victims considered to be more vulnerable due to the nature of the committed crime (domestic violence, human trafficking, etc.) have also been extended. However, the European Union standards on the rights of victims of crime are still not properly implemented. For instance, there is no system for providing all-round support for victims of crime.

Right to Liberty

The number of arrested suspects continued to decline during the period under review. Compared to 2017 alone, the number of arrests in 2019 has decreased by more than a double, and by almost 80 percent in the last five years (2014–2019). Since the courts satisfy the vast majority of requests for arrest, such a decrease indicates that the necessity to use this measure is responsibly assessed before the request is made. At the same time, the declining use of detention makes it possible to talk about a significant change in strengthening the guarantees of personal liberty in the pre-trial investigation process.

In 2018–2019, the number of probation cases in Lithuania also decreased. It is still difficult to estimate whether the number of parolees will be increased by the amendments to the Penal Enforcement Code that will enter into force as of 1 July 2020. The expansive application of the electronic surveillance of convicts casts doubt on its purposefulness and effectiveness.

Two decisions of ECHR relevant to Lithuania in cases relating to involuntary hospitalisation and treatment were adopted and relayed to the public in 2018. There was also a public hearing on the draft Law on Mental Health Care, with the proactive involvement of non-governmental organisations and the Seimas Ombudsmen's Office. A new version of the Law on Mental Health Care was approved in 2019. Contrary to international obligations, it extended the conditions of involuntary hospitalisation and included more provisions, whose the compatibility with the human rights standards deserves serious discussions, however, it also includes some aspects that consolidate human rights. The new procedure for involuntary hospitalisation and treatment approved by the Minister of Health describes in detail the procedures for involuntary hospitalisation and involuntary treatment in order to harmonise these practices in all treatment institutions, and initiates involuntary hospitalisation monitoring by collecting and analysing data at the national level.

Right to a Community Life

During the period under review, the Ministry of Social Security and Labour, its subordinate institutions and municipalities continued the institutional childcare reform, the aim of which is to enable children deprived of parental care to be cared for in a family environment. During the reform, legal possibilities were narrowed down in terms of establishing institutional custody of children deprived of parental care, large childcare institutions were disbanded, community foster care homes were established, care centres providing training for guardians were established, and the network of guardians caring for children in emergency situations was expanded. The number of children in institutional childcare shows progress in the reform, however, about 20 percent of children deprived of parental care are still being placed in institutional childcare each year. Therefore, when planning the next steps of the reform, it is expedient to set more ambitious goals and strive for the complete abolition of childcare in large institutions.

Despite the fact that the institutional childcare reform has been underway in Lithuania since 2014, in 2019, there were still 32 stationary care institutions for the elderly, children, and children and adults with disabilities operating in the country under the Ministry of Social Security and Labour. Approximately 6687 people live in social exclusion in these closed type institutions which also provide 4262 jobs. It should be noted that, in order to better ensure the rights of persons with disabilities, their social inclusion and a better quality of life, the reform is carried out only in 6 out of 10 regions of Lithuania. The case of Žiežmariai, which was widely publicised in 2019, revealed that Lithuania is not properly implementing the reform and its international obligations assumed by the ratification of the UN Convention on the Rights of Persons with Disabilities in 2010. Newly built group living homes, as perhaps the main means of the reform, do not comply with the provisions of the Convention. Larger social care institutions are simply being replaced by smaller ones, thus not fully ensuring the opportunity for people with disabilities to choose where and whom to live with, as well as not assuring their autonomy, dignity and independence in living in a community and in receiving effective and personalised support services. There is also an absence of appropriate information about the reform,

particularly in the regions and in the public sphere, as well as a lack of public education activities and awareness-raising campaigns about the rights of people with disabilities, obstacles they face and stigma regularly encountered by the persons with disabilities in Lithuania.

Deprivation of Liberty

On 1 August 2019, 28 children lived in three children's socialisation centres operating in Lithuania. The plan of the Ministry of Education, Science and Sports to modernise one and establish two new centres in 2019 has not been implemented. The managers and staff of the children's socialisation centres expressed their doubts about the reform, its course, and the liquidation of the former centres. Meanwhile, children who have filed a lawsuit for damages against the Children's Socialisation Centre Širvėna after reaching the age of adulthood believe that the managers of the socialisation centre did not provide them with a safe environment and did not prevent crime. In 2019, the Supreme Court of Lithuania passed the final and unappealable ruling, according to which not only the abusive adolescent but also the responsible institution had to take responsibility for the crime. There are also plenty of difficulties in the existing centres, although the number of children in them is gradually decreasing. Attention should be paid to the lack of quality modern social services and minimal care facilities in municipalities. The provision of such services and facilities is important to prevent children from ending up in socialisation centres and to constructively address the difficulties faced by children with behavioural and emotional problems and their family members or carers.

In the summer of 2018, the public became aware of the long-standing managerial, legal, and organisational issues in the Lithuanian prison system. Although the reports of the Seimas Ombudspersons, Committee for the Prevention of Torture and Human Rights Monitoring Institute, judgments of the European Court of Human Rights and national courts, and scientific and journalistic research have been pointing out to these issues for a long while, the publicity the issues has recently received could have become a breaking point for serious reforms and changes. However, according to various recent statistical indicators, studies and reports, there were no significant positive changes in the Lithuanian prison system in 2018–2019.

Prohibition of Violence

In Lithuania, fewer crimes related to domestic violence were registered in 2018–2019 than in the previous period, but it is not yet possible to conclude whether this type of violence is actually decreasing. Human rights organisations have consistently called for ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, but this has been opposed by politicians and bishops. In 2019, the UN Committee on the Elimination of Discrimination against Women issued recommendations to Lithuania, which, just like five years ago, emphasised the need to effectively combat domestic violence and abuse against women.

In cooperation with other non-governmental organisations, OEOO has done a lot to prevent and combat violence against women and sexual harassment. Journalists were provided with guidelines on how to write about violence against women, specialists were issued recommendations on how to provide support, and appropriate social campaigns were organised. Non-governmental organisations also developed a sexual harassment prevention training program and tested it out in companies. Also, a survey on sexual harassment in the Lithuanian film industry was conducted. However, there have been no significant legal or political changes in this area in Lithuania, and there were even attempts to stop some of the social campaigns on violence against women. Victims of violence and sexual harassment continue to find it difficult to achieve justice in Lithuania.

Effective protection of children from violence requires a well-functioning prevention and response system: education and services for all members of society, for families facing difficulties, as well as for children and their families who were affected by violence. The most important recent achievements in this field include the clear prohibition of violence against children, the ongoing reform of

the protection of children's rights, amendments to the law ensuring better protection of children in criminal proceedings, the nationwide Integrated Family Services project, the first service initiatives for children with behavioural and emotional difficulties, etc. Continuity of services for children and families remains a problem, as almost all services are funded on a project basis. However, the main challenge and goal in this area is to recognise the safety of children as a clear priority of the state, the implementation of which requires consistent measures.

Human Trafficking and Other Forms of Exploitation

Although Lithuania's anti-trafficking legal framework is in line with the international standards, there is no system for effectively protecting victims and identifying cases of exploitation. The gap between the number of launched pre-trial investigations and the number of people consulted by non-governmental organisations has widened, which can be interpreted as a consequence of mistrust in law enforcement institutions and stagnant victim identification process. As in the rest of the world, the number of cases of grooming on the Internet and forced work on pornographic websites has been increasing in Lithuania. Another worrying trend is the increasing exploitation of migrant workers. Both online exploitation and the forced labour of migrants require law enforcement institutions to have employees that are competent in identifying and investigating these types of crimes. It is important to ensure that prevention and information measures are expedient and able to reach vulnerable groups. It is also necessary to strengthen the protection of victims' rights, and to raise the awareness of the public and of the responsible authorities on anti-trafficking issues. It is important to pay attention to the vulnerability of labour migrants, existing language barriers and measures to increase the accountability of employers.

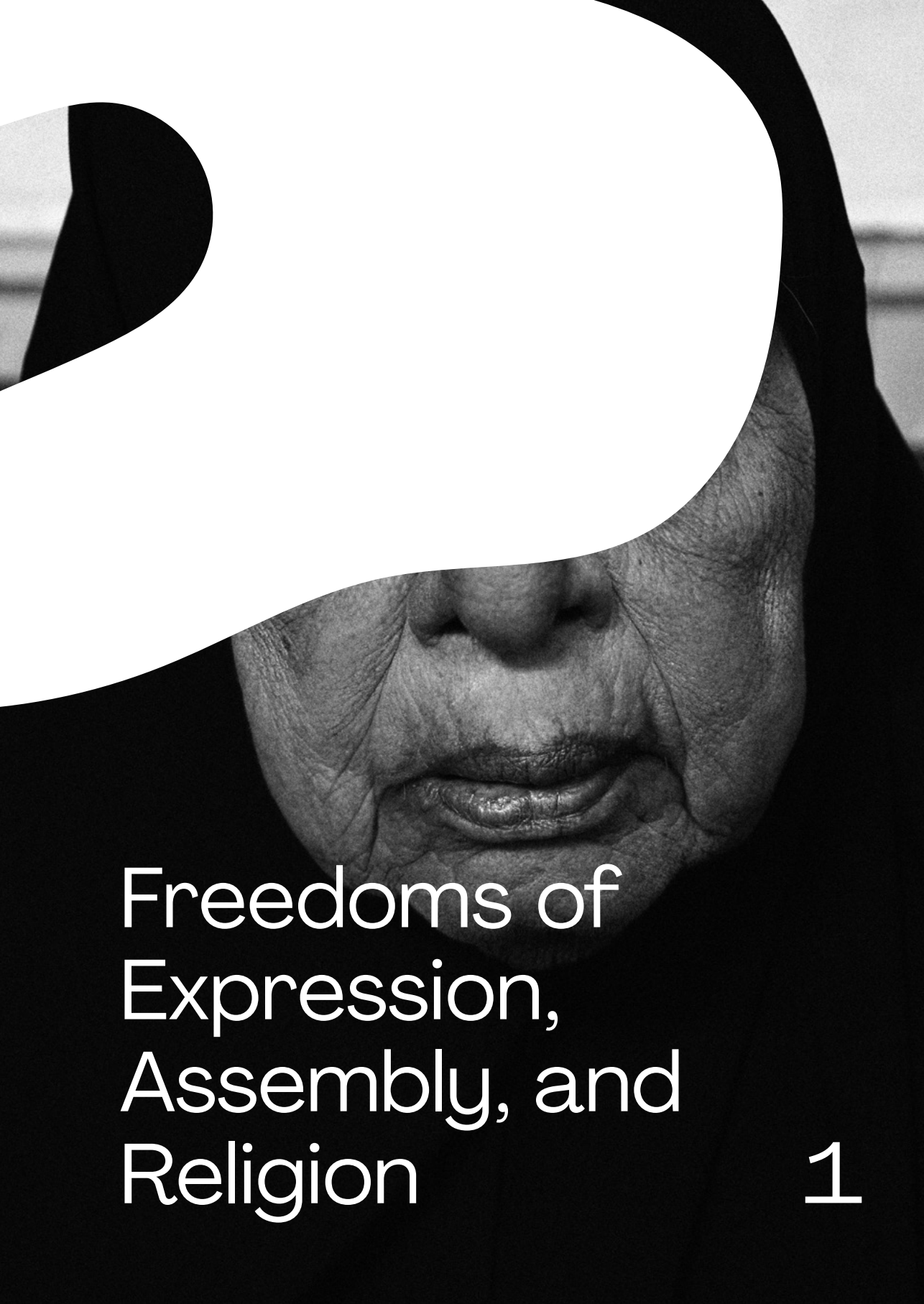
Migrant and Refugee Rights

In recent years, changing tendencies of international migration in Lithuania have been observed – more and more foreign citizens choose to live and work in our country. Nevertheless, the migration policy implemented in our country shows that it is primarily focused on return migration, that is, on citizens of the Republic of Lithuania and their family members who are living abroad. The entry of foreign nationals is subject to a restrictive and non-uniform migration policy – more favourable conditions for entry are provided to foreigners with certain professions, highly qualified professionals or citizens of certain countries and their family members. It is observed that our country still lacks a systematic migration policy focused on long-term integration – in practice, the implementation of integration measures remains fragmented, and their implementation alone does not ensure the continuity of such activities within the framework of projects.

With the increasing number of applications to grant asylum in the Republic of Lithuania and the growing number of unexamined asylum applications, the resolution adopted by the Government in 2019 to submit amendments to the Seimas regarding the provision of employment opportunities for asylum seekers in Lithuania is particularly significant. Another important step is the Action Plan 2018–2020 on the Integration of Foreigners into Society adopted at the end of 2018, whose implementation measures also include the integration of asylum seekers. Despite certain positive developments in the implementation of refugee rights, there is still a lack of strategic approach, cooperation between different institutions and adequate public funding for the planning and implementation of long-term measures for the integration of these persons. In this context, public attitudes towards different groups of migrants, including refugees, are also important. Although representative surveys reveal that the attitudes towards refugees of the Lithuanian population are becoming slightly more favourable, hostility persists, making it difficult for these foreigners to integrate into society. It is therefore essential to pay more attention to education on cultural diversity (especially at the state level, as measures to promote cultural awareness are currently being implemented through the efforts of private initiatives and non-governmental organisations) in order to reduce prejudices and negative attitudes.

Right to Health

The sustainability of the Lithuanian health care system remains threatened by excessive inequalities and a lax approach to modern principles of health science and human rights. Some areas of health care have historically been developed as a matter of priority, while the development of others is constantly being postponed. This leads to a situation where entire groups of people are discriminated against if their health problems are not considered „prestigious“ or worth investing in. Politicians responsible for the health care system are refusing to acknowledge the significant gaps in the provision of services to children and adults with mental, behavioural, and developmental disorders. There is no incentive to develop much-needed continuing non-pharmaceutical services, thus the rights of patients are still being violated since they do not have access to quality services or are re-hospitalised and provided with outpatient medication-based treatment, even if they often do not need it. This way, the provision of the surplus services violates the „first, do no harm“ principle and may even harm the physical and mental health of patients.



Freedoms of
Expression,
Assembly, and
Religion

1

Freedom of Expression

Mėta Adutavičiūtė

During the period under review, state institutions repeatedly attempted to restrict freedom of expression and the media with various draft laws, however these attempts were unsuccessful due to the opposition of the public and the media. Lithuania has also lost two cases in international proceedings for unjustified restriction of freedom of expression.

On 30 January 2018, the European Court of Human Rights (ECHR) acknowledged that the freedom of expression of designer Robertas Kalinkinas has been violated by Lithuania in the case *Sekmadienis v. Lithuania*.¹



In the autumn of 2012, Kalinkinas organised a promotional campaign for his new clothing collection. The designer's promotional posters depicted young people wearing clothes from R. Kalinkinas collection with the slogans "Jesus, what trousers!" (Jėzau, kokios tavo kelnės!), "Dear Mary, what a dress!" (Marija brangi, kokio suknelė!) and "Jesus [and] Mary, what are you wearing!" (Jėzau Marija, kuo čia apsirengė!). The designer was fined €579 for misusing religious symbols in advertising.

UAB Sekmadienis, which organised the promotional campaign, unsuccessfully appealed this decision to the Lithuanian courts. Under the final judgment of the Supreme Administrative Court of Lithuania, this decision was upheld because, according to the court, religious symbols were used improperly in advertising images. The court concluded that the chosen way of implementing the advertisement did not comply with the principles of good morals and respect for the values of the Christian faith and symbols of sacredness.

After examining the case, the ECtHR found that Lithuania had unreasonably restricted the freedom of expression of UAB Sekmadienis and had violated Article 10 of the European Convention on Human Rights. The Court strongly criticised the motives used by the Lithuanian advertising supervision authority and the courts, on the basis of which the applicant's appeals against the imposition of a fine have been rejected. In the opinion of ECHR, the arguments of institutions were declarative, superficial, and insufficient to explain what was specifically offensive in these advertisements. According to the ECHR, Lithuanian authorities failed to find the right balance between the protection of the feelings of believers and the applicant's freedom of expression, giving the former absolute priority. "In this case, even if you extensively use your imagination, there was nothing in all the three advertisements (which, by the way, can still be found online) that could be considered offensive or com-

parable to any kind of defilement of religion or religious symbols, or considered to be a justifiable reason to put restrictions on them in order to protect human rights,” said Judge Vincent A. De Gaetano whose opinion was even stricter than that of the majority of the panel. According to him, such cases should not have even drawn attention from the institutions. The court awarded the company that created the said advertisement a compensation for damages of EUR 580.

On 2 March 2018, Vilnius Regional Administrative Court acknowledged that, in advertising its products, UAB Kiauliy valdovai failed to comply with the requirements of the Law on Advertising prohibiting contempt for religious symbols, and thus exceeded the limits of freedom of expression. An administrative fine was imposed on UAB Kiauliy valdovai for its *Facebook* posts made in 2015–2017 which included religious figures and symbols. The company was unsuccessful in appealing against the imposition of the said fine.²

At the beginning of 2018, the Seimas approved the amendments to the Law on Consumer Protection drafted by the Ministry of Economy, which would have prohibited the sale of goods that “promote a positive attitude towards aggression against another country or other acts that violate state sovereignty, distort historical facts, and belittle the history of Lithuania, its independence, territorial integrity or constitutional order, or promote a positive attitude towards the forced change of borders established under international law”.³ It is likely that books and other publications would have also been subject to these prohibitions.

On 17 April 2018, the Human Rights Monitoring Institute (HRMI) submitted comments on this draft law, emphasising that the provided grounds for prohibitions are extremely broad and would disproportionately restrict the fundamental freedom of expression. Such prohibitions would potentially have a deterrent effect on public and academic discussions on political and historical matters and may place unreasonable restrictions on the exchange of ideas and information. After the reading of the draft law, the Seimas Human Rights Committee proposed to reject it.

Amendments to the Law on VIP Protection prepared by the Ministry of the Interior have been registered in the Seimas on 27 August 2018, with the aim of enabling VIP protection officers to eliminate risk factors that could negatively affect the authority of the President, Prime Minister and Speaker of the Seimas.⁴ VIP protection officers would have had the right to issue a formal warning to a person if there were reasonable indications that he or she had attempted to undermine the authority of state leaders.

HRMI submitted its comments on the said draft law on 9 September 2018, arguing that the vagueness of the proposed amendments enables to use the provisions of this law to restrict the freedom of speech and expression, the right to peaceful assembly and the right to freely criticise government officials. Due to the public and media outrage over the proposed restrictions, the said draft law was not considered further.

In September of 2018, the Centre of Registers discontinued its long-standing practice of providing register data free of charge to journalists who formally request such data. According to the representatives of the centre, this practice was illegal because it was not established by law. Journalists, just like business representatives, were offered to pay for the information provided by the Centre of Registers at commercial rates. Lithuanian journalists publicly addressed the government authorities, emphasising that such a situation “grossly violates the freedom to freely collect, receive and disseminate information guaranteed by the Constitution and laws of the Republic of Lithuania”.⁵

In response to the journalists’ outrage, the Ministry of Transport drafted amendments to the law that would have allowed journalists to continue receiving data from the Centre of Registers free of charge. However, a decision was made during the Government meeting not to approve the said draft and resubmit it to the Ministry for improvement. According to unofficial data, the Prime Minister himself did not support the proposal favourable for the media.⁶

When journalists requested access to the audio recording of the said Government meeting, it was initially refused on the grounds of confidentiality of the Government meeting, and a few days later this audio recording was destroyed altogether. The Lithuanian Union of Journalists as well as journalists from several editorial offices appealed against this decision of the Office of the Government to the Vilnius Regional Administrative Court, however the court judgment was unfavourable to journalists and was appealed against to the Supreme Administrative Court of Lithuania.⁷

On 2 January 2019, amendments to the Law on Provision of Information to the Public prepared by the Ministry of Culture and submitted by the Seimas Culture Committee were registered in the Seimas with the aim of prohibiting the publication of information in the mass media, when such information: *“attempts to distort the historical memory of the Republic of Lithuania, promotes distrust in and dissatisfaction with the country and its institutions, democratic system and/or military, aims to widen national and cultural divisions, weaken national identity and civic engagement, undermine the citizens’ determination to defend their country, or otherwise influences democracy, elections or the party system in a way that runs counter to the interests of national security.”*⁸

According to the HRMI, such amendments would jeopardise the freedom of debate on historical facts and the possibility of criticising public authorities and officials, and would enable to prohibit the media from disseminating information based on vague grounds that publication of such information “go against the interests of national security”. After the said amendments were opposed by the public and the media, their initiators withdrew the part of the amendments related to Article 19 of the Law on Provision of Information to the Public.

On 24 July 2019, in the case of *E. Kusaitė v Lithuania*, the United Nations Human Rights Committee found that Lithuania had violated the right to freedom of expression enshrined in the International Covenant on Civil and Political Rights.⁹ E. Kusaitė was charged with criminal liability for insulting civil servants – prosecutors of the General Prosecutor’s Office of the Republic of Lithuania. According to the Committee, due account has not been taken of the fact that the applicant’s statement was a spontaneous reaction to the news that she would be detained. In addition, the criminal proceedings of E. Kusaitė attracted a great deal of public interest and may have had political implications, therefore the limits of her criticism of prosecutors could have been wider. The Committee also reiterated its position that states are encouraged to consider decriminalising defamation and that the application of criminal law should be justified only in the most complex cases.

In October of 2019, after receiving viewer complaints, the Lithuanian Radio and Television Commission considered whether the TV episode “Colours. Gay Dads” published on LRT.It portal contained information harmful to minors.

In October of 2019, after receiving viewer complaints, the Lithuanian Radio and Television Commission considered whether the TV episode “Colours. Gay Dads” published on LRT.It portal contained information harmful to minors. There were even two protesting groups gathered near the LRT building, one of which expressed its outrage regarding the episode, while the other expressed its support.¹⁰ The HRMI expressed its position regarding this situation, stating to the Lithuanian Radio and Television Commission that the episode “Colours. Gay Dads” is considered to be a valuable contribution to the public debate on the right to respect for family life, thus also contributing to the implementation of the mission of the public broadcaster to ensure the public interest in being informed which is enshrined and protected by the Constitution. And restrictions on dissemination of this in-

formation would be constitutionally unreasonable and would violate the international obligations of the Republic of Lithuania in the field of protection of freedom of expression. After considering the issue, the Radio and Television Commission of Lithuania decided that, in publishing the said episode, the LRT.It portal did not violate the Law on the Protection of Minors against the Detrimental Effect of Public Information. In this context, it should also be noted that concerns about the Law on the Protection of Minors against the Detrimental Effect of Public Information have also been expressed by the United Nations Human Rights Committee. The Committee believes that this law can be used to restrict information provided by the media and other published content in a manner which would also unduly restrict the freedom of expression of lesbian, gay, bisexual, transgender and intersexual people and contribute to discrimination.¹¹

In summary, the 2018–2019 period was marked by attempts of public authorities to restrict the freedom of expression on various grounds such as national security, fight against disinformation or protection of state authorities. There were also positive developments in the fact that both the civil society and the media have responded to such attempts actively and in a focused manner, preventing the application of unjustified law-enforced restrictions on the freedom of expression during the reviewed period. At the same time, the discriminatory provision of the Law on the Protection of Minors from the Detrimental Effects of Public Information prohibiting the dissemination of information on same-sex marriages still remains. It is advisable to address this issue by amending the law and repealing the said provision.

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Freedom of Assembly

Mėta Adutavičiūtė

On 10 October 2018, the Supreme Court of Lithuania (SCL) issued a ruling in a case regarding the imposition of an administrative fine on an applicant protesting against the cutting of trees in Kaunas.¹ The applicant was fined EUR 130 for disobeying police officers' orders to move away from the trees surrounded by the STOP POLICE tape on 21 August 2017. After being forcibly removed from the area, the applicant crossed the protective tape and thus allegedly violated Article 21 of the Law on Police of the Republic of Lithuania (did not comply with the lawful requirements of officers).

The panel of judges of the SCL noted in the ruling that the applicant was convinced that he was seeking an outcome which would benefit society and was fulfilling the provision enshrined in Article 14(2) of the Law on Green Areas establishing that natural and legal persons should not allow illegal actions or omissions if they could potentially result in the destruction of or damage to green areas. In view of the court, this also means the duty delegated to the applicant by law – not to allow the remaining chestnut trees to be cut down. According to the court, the applicant and other persons who were with him at the time, did not move away from the trees and did not allow the tree-felling company to carry out its work, since leaving that area would mean that it would no longer be possible to carry out a qualitative examination of the condition of the trees if they are cut down.

The court found that there had been no fault in the applicant's actions in crossing the police line, as his intention was not to commit a dangerous act but to at least temporarily preserve the trees from felling until their condition is examined and clarified. On that basis, the SCL acknowledged that the applicant had been unreasonably fined and annulled this decision.

With this ruling, the SCL defended the freedom of assembly of protesters and confirmed that the public has the right and duty to react if state institutions take arbitrary, uncoordinated or potentially harmful actions in the field of nature protection.

One of the most memorable events of the period under review in the area of freedom of assembly was the teachers' strike and protest by occupying the premises of the Ministry of Education and Science. This situation arose when, on 28 November 2018, teachers belonging to the Lithuanian Education Employees Trade Union came to the Ministry to negotiate with the Minister of Education and Science. The Minister failed to show up so the teachers decided to remain within the Ministry's premises. Later, more teachers joined them, entering the ministry building through the window. Teachers "lived" in the ministry from November 28 until December 19, and abandoned the premises only after the newly appointed Minister of Education and Science promised to compensate the teachers' income lost due to the strike.² No action was taken by the state authorities against the protesting teachers, except for requests to leave the ministry.

On 8 June 2019, the fourth Baltic Pride march took place in Vilnius with a record number of 10 thousand participants. This was already the second march without any incidents on the part of the counter-protesters and without any formal obstacles to the organisation of the event created by state institutions. Baltic Pride has received public support from foreign embassies, some Lithuanian politicians, businesses and the media.

On 9 November 2019, a crowd gathered outside the LRT building protesting against the TV episode "Colours. Gay Dads" published on LRT.lt portal.³ A well-known comedian Olegas Šurajėvas was arrested during the protest and taken to police custody. Dressed in women's clothes, O. Šurajėvas participated in a simultaneous counter-protest for media freedom and LGBTI* rights. According to



a police spokesman, the comedian was arrested for disobeying the lawful orders of officers and “hindering” the organisers of the protest.⁴ It should be noted that Article 5 of the Law on Assemblies provides for specific actions that are prohibited during assembly: 1) violation or incitement to violation of the Constitution and laws; 2) violation of the standards of morality and ethics; 3) demonstration of symbols of Nazi Germany, the USSR or the Lithuanian SSR; 4) other performance of or preparation to perform acts provided for in the Criminal Code. According to the information provided by the media, O. Šurajėvas did not perform such acts. By participating in the counter-protest, he simply expressed his views and opinion on the protest to which the comedian objected – such a right is guaranteed to every citizen of the Republic of Lithuania by the Constitution and the already mentioned Law on Assemblies. Thus, there are reasonable doubts as to whether the actions of law enforcement officers against O. Šurajėvas were lawful and proportionate. The mere fact that the organisers of the protest did not agree with the forms of expression of a counter-protester cannot be a sufficient ground for restricting one’s freedom of assembly.

In summary, during the reviewed period, no systemic issues relating to the freedom of assembly or restrictions to organise peaceful assembly have been identified in Lithuania, however, certain unjustified and disproportionate actions of law enforcement officers in terms of assembly participants raise some concern. It is recommended to organise training for law enforcement officers on the guarantees of freedom of assembly enshrined in the Constitution and the Law on Assemblies, as well as on the international standards in the field of freedom of assembly, particularly those that are formed by the European Court of Human Rights.

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Freedom of Religion

Milda Ališauskienė

The provisions of the freedom of religion established in Art. 26 of the Constitution of the Republic of Lithuania comply with the universal provisions of human rights. However, the implementation of these provisions in Lithuania, as in most other post-communist countries, is often limited to the assurance of individual religion, privately practised religion and the freedom of belief. Still, when implementing the aforesaid provisions of the freedom of religion and belief, Lithuania often ignores the generally accepted practice that religion is a social phenomenon with a religious community and common religious practices, and that constitutional protection should also be ensured for these aspects of religious life.

The relationship between religion and the State is defined in Art. 43 of the Constitution. It divides religious communities into *traditional* and *other*. In 1995, the Law on Religious Communities and Associations provided a list of 9 traditional religious communities and established an additional religious community category – *state-recognised religious community*.¹ In scientific literature, such a model for the recognition of religious communities in Lithuania is seen as particularly complex compared to the religious policy models of other European countries.² By the end of 2019, the *status of a state-recognised religious community* was given to 4 religious communities.

In most cases, provisions of agreements between the Republic of Lithuania and the Holy See on co-operation concerning relations between the Catholic Church and the State, education and culture, as well as the pastoral care of Catholics serving in the army are usually applied only to the Roman Catholic Church. This way, exceptional conditions are created for this religious community in the life of the state and society.³

According to the population census data of 2011, three-quarters of Lithuanians consider themselves as followers of the Roman Catholic Church (77.2%), while a quarter of people living in Lithuania belong to various other religious communities, do not belong to any communities or are non-religious. Based on the census data, Lithuanians have 59 different religious communities. The largest religious minority communities are the Orthodox (4.1%), the Old Believers (0.8%), the Evangelical Lutherans (0.6%), the Evangelical Reformed (0.2%), the ancient Baltic faith community (0.1%), and Jehovah's Witnesses (0.1%).⁴

Between 2018 and 2019, quite intense discussions took place in the field of freedom of religion and belief regarding the limits of individual and communal, private and public freedom of religion. Representatives of various religious communities, as well as the communities themselves and state institutions, took part in these discussions.

In June of 2018, the ancient Baltic faith community Romuva applied to the Ministry of Justice for the status of a state-recognised community. Upon receiving the Ministry's approval for granting the requested status, the Seimas commenced deliberations on this subject. During these political discussions, concerns were expressed regarding the supposedly possible ties of Romuva to Russia based on which it was decided that the possibilities of the Romuva community to become a state-recognised religious community should be considered by the Seimas Committee on National Security and Defence. It should be noted that such practice was applied only in relation to the Romuva religious community; religious communities that had previously sought the status of state recognition were not considered by the above-mentioned Seimas Committee. In the absence of threats to national security, the Seimas raised concerns that granting the status of state recognition to the Romuva community could disrupt Pope Francis' visit in September of 2018, therefore, the consideration of this matter was postponed. On 27 June 2019, after the Seimas resumed its deliberations on whether to grant the status of state recognition to the Romuva community, a decision was made not to satisfy this request.⁵ On the eve of the deliberations, members of the Seimas received a letter from

the hierarchs of the Lithuanian Catholic Church encouraging the politicians not to grant state recognition to the Romuva community.⁶ During the deliberations, Member of the Seimas Žygmantas Pavilionis expressed his opinion that Romuva has ties with the Kremlin. On 11 September 2019, Seimas Committee on Ethics and Procedures obliged Member of the Seimas Ž. Pavilionis to withdraw his statement at the next sitting of the Seimas.⁷ In September of 2019, Romuva community applied to the European Court of Human Rights (ECHR) asking to declare that Lithuania had violated the articles of the European Convention on Human Rights on freedom of thought, conscience and religion, non-discrimination and the right to a fair trial and an effective remedy.⁸

On 27 February 2018, the ECHR issued its decision in the case of Mockutė v. Lithuania.⁹ The court ruled that Lithuania had violated the applicant's right to privacy and freedom of religion and ordered to pay a compensation and cover all costs incurred by the applicant. Neringa Mockutė accused Lithuania of involuntary hospitalisation, restrictions on religious freedom, and hostility from hospital staff directed toward her because the applicant participated in the Osho religious movement and meditation practice. Mockutė also accused medics working at the Vilnius Republican Psychiatric Hospital and creators of LNK TV show "Srovės" of disclosing private information after they presented unilateral information about her medical history and the supposed cause of her illness – Osho meditation practices.

In 2019, as the public debate on the participation of Jonas Noreika-General Vėtra and Kazys Škirpa in the Holocaust continued, the Lithuanian Jewish community received threats. Due to these threats, a decision was made on August 8 to close the headquarters of the Lithuanian Jewish community and the Vilnius Synagogue.¹⁰ However, several days later, the availability of the community headquarters and synagogue has been restored.

In October of 2019, a public debate on the construction of a mosque in Vilnius took place. It turned out that in 2018 an alternative muftiate (Council of Lithuanian Muslims Religious Communities – Muftiate) uniting the Muslim communities of Kaunas and Vilnius was established. It was headed by Aleksandras Beganskas who was given a land plot for the construction of a mosque on Liepkalnio Street, Vilnius. Meanwhile, the Spiritual Centre of Sunni Muslims of Lithuania – Muftiate representing the Tatar community asked for a land plot on Sietyno Street. After a land plot on Liepkalnio Street was allocated to the community led by A. Beganskas, it became clear that it had been given in place of the previous land plot on Mečetės Street, bypassing the Lithuanian Tatar community.¹¹

On 19 October 2019, the Supreme Court of Lithuania issued an unappealable ruling that deacons of the Jehovah's Witnesses Community can serve as conscripts. In this way, the legal deliberations on whether the clergy of traditional and non-traditional religious communities can serve as conscripts were completed. Having previously examined the situation, the Constitutional Court has ruled that the clergy of both traditional and non-traditional religious communities cannot be exempted from serving as conscripts.¹²

As in previous years, the debate on the boundaries of freedom of religion and expression has also been gradually returning during the reviewed period. On 15 August 2018, three men – actors V. Cololo, M. Papinigis and A. Storpirštis – disguised as clergymen came to the Church of Turgeliai in Šalčininkai District, where they talked in Polish about the Zero Live Show organised in Siemens arena, as well as offered and distributed fake joints to the believers. At that time, a rosary was prayed and confessions were being heard at the church. According to prosecutors, the organisers and executors of the campaign deliberately sought to disrupt the religious rites in the church, which is widely attended by Polish believers. As stated by the prosecutor's office, the actions of the actors "possibly mocked the freedom to profess and practice the Catholic religion in public". Criminal proceedings were terminated due to the insignificance of the case, and fines have been imposed on the actors.¹³ This decision was appealed by both the prosecutor's office and the participants of the promotional campaign. After examining the appeals, the Vilnius Regional Court made a decision unfavourable to the actors concluding that the participants of the campaign disrupted church services, thus committing an offence.¹⁴

In terms of religious freedom, the media has been mostly covering the daily lives of traditional religious communities during the reviewed period. Meanwhile, representation of the activities of religious minorities remains problematic in the Lithuanian media. These groups usually attracted attention only due to exotic or criminal reasons. For example, while in 2018–2019 the Lithuanian media did not pay any attention to addressing the restrictions imposed on the activities of Jehovah's Witnesses in Russia, the situation of this community in the neighbouring country received considerable attention from the media around the world.

In summary, the freedom of religion enshrined in the Constitution and legislation is often perceived as individual freedom, while communal freedom of religion and belief is quite often guaranteed only to the dominant Roman Catholic Church and other traditional religious communities. This situation is tolerated by both the legislature and the society itself, which do not take into account the diversity of religions that exists in Lithuania.

Lack of knowledge about religious diversity could be remedied by the introduction of non-denominational religious education in formal education and training institutions. A discipline-based on knowledge of the history of religions, sociology of religion, the psychology of religion, and other related subjects could provide more objective information about the religious life of Lithuania.

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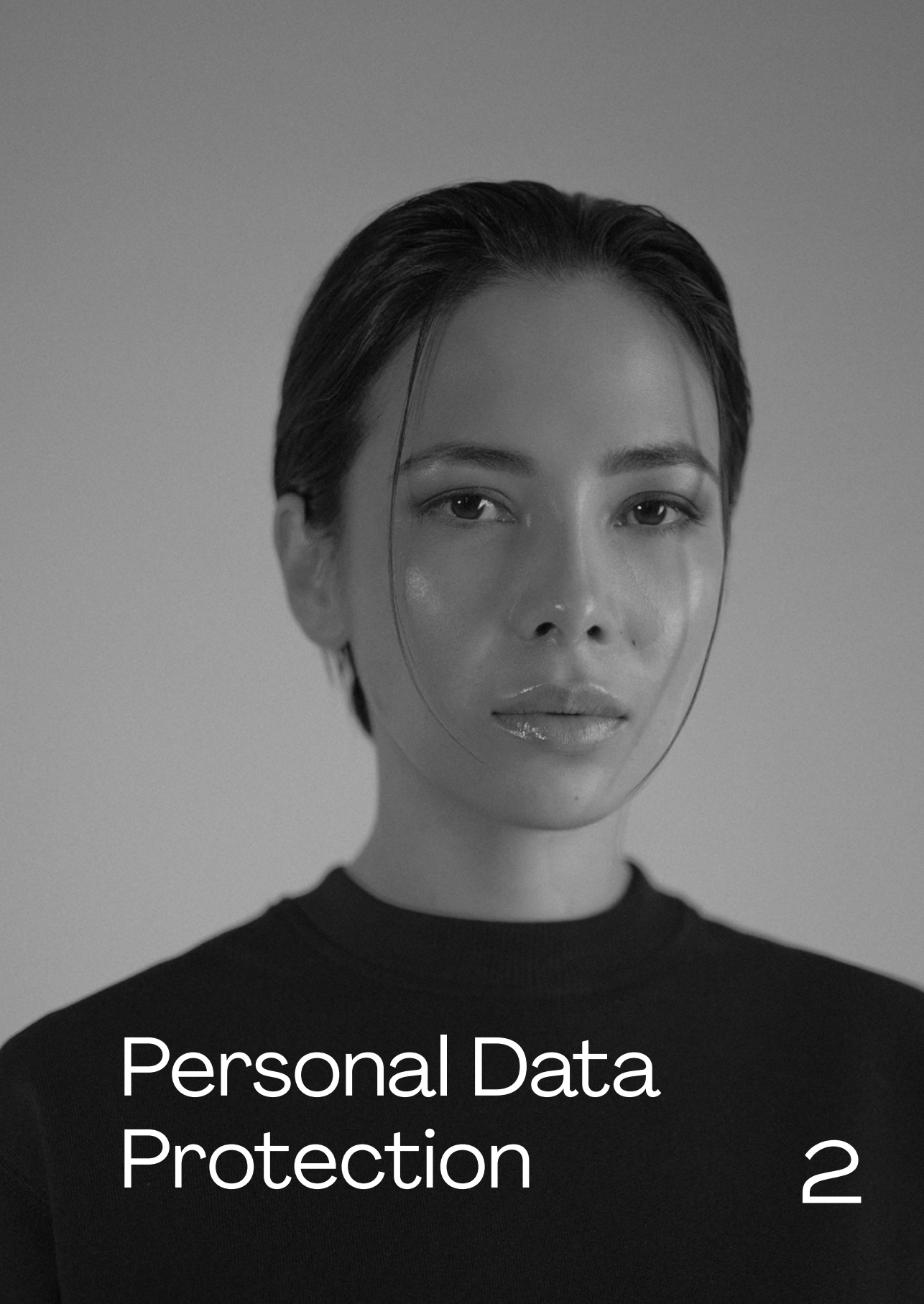
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Personal Data Protection

Personal Data Protection

Natalija Bitiukova

During the period under review, there were a lot of significant developments in the field of personal data protection both in Lithuania and around the world. These notable developments include the growing number of artificial intelligence-based technologies posing challenges to human rights and freedoms,¹ the General Data Protection Regulation that came into effect in 2018,² the Council of Europe Convention 108+ effective since 2019,³ the Cambridge Analytica and Facebook scandal over the illegal use of personal data for political micro-targeting purposes,⁴ the dissemination of revenge pornography and disinformation on social networks⁵. All of these events had political, social and legal implications and have led to a more active global debate on the need for effective protection of personal data and privacy.

To some extent, echoes of these debates reached Lithuania as well. However, in Lithuanian discourse, data protection was often positioned as an obstacle to freedom of information and expression or the development of innovation, instead of being seen as an integral element thereof.

Overview of Legal and Institutional Changes

At the end of 2015, the EU Council and the European Parliament have reached an agreement on the EU data protection reform and adopted the General Data Protection Regulation (hereinafter – Regulation, GDPR). The Regulation, which became effective on 25 May 2018, strengthened the rights of the consumers at the same time placing more demanding responsibilities for data processing on companies and public authorities.

Each EU Member State was required to adopt national legislation implementing the Regulation before its date of application. Lithuania fulfilled this obligation somewhat late, and the new version of the Law on Legal Protection of Personal Data (hereinafter – the Law) was adopted only on 30 June 2018.⁶ This delay may have been related to the rather challenging preparations for the implementation of the GDPR in Lithuania – for almost a year the main data protection authority, State Data Protection Inspectorate operated without a permanent director. He was appointed only in February of 2018.⁷

The new law provided for additional regulation in the areas where under the GDPR the Member States had the discretion to legislate. For example, the Law provided for sufficiently broad exceptions for the processing of data for journalistic and artistic expression purposes,⁸ a prohibition to make personal identity numbers public and to process them for direct marketing purposes,⁹ and stricter conditions for the processing of employee data (such as prohibition to collect the information about a prospective employee from his/her former employers without first informing the person).¹⁰ It also provided for lower fines for public authorities for unlawful processing of personal data compared to private entities.¹¹ Unfortunately, the Lithuanian legislator has decided not to extend the right of public interest entities (such as associations or other non-governmental organisations) to represent and seek redress in court for victims of data protection violations, even though the Regulation provides for this possibility.¹²

The law also established that the processing of personal data in Lithuania is supervised by two institutions – the State Data Protection Inspectorate and the Office of the Inspector of Journalistic Ethics (as far as the processing of personal data for journalistic, academic, artistic or literary expression is concerned).¹³ The GDPR, together with the new version of the Law on Legal Protection of Personal Data, has strengthened the powers of these authorities and given them more rights, including the possibility of imposing heavy fines for violations of personal data processing rules.¹⁴ However, supervisory authorities did not exercise this power too often during the reviewed period and instead

focused on other functions such as conducting *ex officio* investigations, handling complaints and providing consultations.¹⁵

The first "GDPR-level" fine was imposed almost a year after the introduction of the GDPR. In May of 2019, it was found that one of the Lithuanian electronic payment companies "processed data in a non-transparent manner, to a greater extent and for longer than necessary to achieve the purpose of data processing, carried out unlawful personal data processing systematically, did not ensure the security of personal data, and did not notify the supervisory authority of the personal data breach".¹⁶ The company planned to appeal the imposed fine of 61.5 thousand euros to the court.¹⁷

When assessing the work of supervisory authorities in the field of personal data, a number of positive developments can be observed. For example, the increased openness of these institutions, more active communication about their activities, frequent publication of activity reports, as well as their active involvement in legislative processes. All of this has also contributed to the higher level of general data protection awareness among the broader public.¹⁸ Nevertheless, these institutions still lack leadership and proactive approach in bringing forward public policies in the field of digital technology development to ensure that these technologies, especially when they are created and developed in Lithuania, are primarily based on lawful and ethical processing of personal data.

New and Old Personal Data Protection Challenges

The issues previously identified with the Law on Electronic Communications, which obliges providers of electronic communications services to store and provide to the responsible authorities the data of all persons using these services for 6 months (e.g., telephone numbers of callers and addressees, subscriber's name, surname, and address) remained unresolved during the period under review.¹⁹ The indiscriminate retention of traffic data not only poses a threat to an individual's privacy, as such data provides extensive and detailed information about an individual's private life but also contravenes international human rights standards enshrined in the Charter of Fundamental Rights of the European Union. Although the Court of Justice of the European Union ruled on the illegality of such regulation in its judgments of 2014²⁰ and 2016²¹, and similar provisions were repealed or are being revised in many EU countries, no concrete steps have been taken in Lithuania to address this long-standing problem.

In terms of long-standing problems, the case of the byLock application should also be mentioned. Reports have emerged in 2017 stating that Turkey had received data from users of the byLock app hosted on the server in Lithuania. The data has in turn been used for the persecution and mass arrests of Turkish opposition supporters. Although the Seimas Committee on Law and Order confirmed that the Lithuanian authorities had not officially provided such information to the Turkish authorities,²² it was not established whether such data were disclosed in other ways, e.g. the Turkish authorities obtained illegal access to them. As early as in 2018, the Human Rights Monitoring Institute applied to the competent authorities to launch an investigation, but the investigation was not launched.

Inspections of companies operating in Lithuania were carried out by supervisory authorities during the reviewed period, revealing that enterprises often store too much personal data, which are not necessary to achieve a specific purpose of personal data processing and do not ensure effective information security management.²³

Cybersecurity loopholes have been identified not only in private businesses but also in public systems that collect sensitive data from almost the entire Lithuanian population. Due to serious security gaps in the electronic health system, anyone was able to access confidential personal data of patients and physicians.²⁴ Judicial authorities, to which the GDPR also applies to a certain extent, did not implement appropriate technical and organisational measures to ensure the confidentiality of personal data. As a result, personally identifiable case documents were published in the Lithuanian Court Information System (LITEKO), from which both the accused and the victims could be identified.²⁵ This is not the first time that security gaps in the electronic court system have been reported in the media. A similar case occurred in 2014 when the personal data of juvenile victims of sexual abuse were disclosed due to the fault of court staff.²⁶ Disclosure of such sensitive personal data

related to painful personal experiences can be seen as an example of a victim's secondary victimisation. Cases of excessive processing of personal data without properly informing data subjects thereof were observed in both the State Social Insurance Fund Board (Sodra)²⁷ and Vilnius City Municipality.²⁸

In summary, it can be stated that stricter legal regulation during the period under review did not necessarily result in the specific measures being taken by data controllers and processors; and their approach to data protection remained rather lax.²⁹

There was also a tendency to use the GDPR during the period under review, often without detailing the content of its specific provisions as an excuse to restrict the public's right to access data from meetings of the Government³⁰, as well as data collected by the Centre of Registers³¹ and the Central Electoral Commission.³² It should be noted that such a practice is not in line with the GDPR's explicit requirement towards the Member States to harmonise the protection of personal data with the right to freedom of expression and information, including the right of public access to official documents.³³ As stated in one of the Regulation's recitals, "The processing of personal data should be designed to serve mankind. The right to the protection of personal data is not an absolute right; it must be considered in relation to its function in society and be balanced against other fundamental rights, in accordance with the principle of proportionality."³⁴

To summarise the trends observed during the period under review, matters relating to personal data protection and privacy were more relevant than ever and received significant attention, especially due to the tightening of legal regulations. The General Data Protection Regulation and the updated version of the Law on Personal Data Protection extended the powers of supervisory authorities and encouraged them to be more active in communicating their activities, which contributed to the growth of awareness among the broader public. However, a "turning point" has not yet been reached and personal data protection area is often perceived as „one of many“ bureaucratic requirements instead of what it is – a prerequisite for sustainable technological development and public sector good governance processes, as well as one of the fundamental human rights.

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Right to Private
and Family Life

3

Family Life

Vytautas Mizaras

Section 1 of Article 22 of the Constitution of the Republic of Lithuania provides that the private life of a person is inviolable, and the right to the respect for and protection of family life is established in section 1 of Article 38 of the Constitution, as well as in Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). Based on the practice of the European Court of Human Rights (ECtHR), the right to a private and family life is the right to live as one wishes, the right to establish and maintain relationships with other people, particularly in the area of emotional life, as well as the right to be protected from one's personal life being made public, and the possibility to improve, realize and promote oneself as a person.¹ The Constitutional Court of the Republic of Lithuania expressed its position that, among other things, the right of a person to his or her private life includes the inviolability of personal, family and home life.²

According to Article 8 of the ECHR, the right to family life is ensured not only for people within marriage, but also for those who have not entered into marriage, but still live as a family. An unmarried couple shall be considered as family if their relationship has stability and is no different from the life of spouses, excluding the fact that they have not entered into marriage.³ The term “family” cannot be exclusively associated only with marriage-based relationships, since it also includes other actual relationships arising between persons who live together without getting married.⁴

Article 8 of the ECHR also covers the right of persons of the same sex to respect for family life⁵. Attention should also be paid to the fact that, in 2013, the ECtHR found that the state is violating the provisions of Article 8 and Article 14 of the ECHR prohibiting discrimination, if it does not provide legal protection for the family of same-sex couples the same way that it provides such protection to the families of opposite-sex couples.⁶

According to Article 8 of the ECHR, the right to family life is ensured not only for people within marriage, but also for those who have not entered into marriage, but still live as a family.

As stated by the ECtHR in the case of 2015 of *Oliari and Others v. Italy*, the state does not have the full freedom of self-determination on whether to recognise the legal family relations among same sex persons, i.e. the state's obligation to regulate the aforesaid legal relations was recognised for the first time.⁷ This statement was repeated by the court in 2016 in another case against Italy⁸, and in 2017 the court added that states have a duty to protect the family life of persons of the same sex.⁹

Ever since 2000, when the new Civil Code came into force in Lithuania, its standards intended for legal family partnership relations between opposite-sex couples never became effective. A few legislators' attempts at regulating family partnerships of opposite- and same-sex couples legally have been unsuccessful. Families living out of wedlock are not legally recognised as having a status of family members, nor do they have adequate legal protection. This way Lithuania is violating the international treaty it has ratified – the European Convention on Human Rights, as well as the Constitution, because, in 2011 the Constitutional Court stated that Article 38 of the Constitution protects not only marital families, but also family life based on other grounds.¹⁰

During the period of 2018–2019, there were no initiatives in the Seimas regarding the regulation of legal relations in partnership-based families (there were two attempts to do so during 2015–2017, both of which did not even reach the deliberation stage). However, an amendment to Article 3.3 of the Civil Code was adopted by the Seimas on 26 June 2018¹¹, adding the principle of complementarity of paternity and maternity to the list of principles on which the legal regulation of family relations is based. The emergence of such a rule of law is clearly discriminatory in that it discriminates against same-sex families with children.

During the period under review, a ruling of the Constitutional Court of the Republic of Lithuania has been adopted, which is significant to the constitutional concept of family. On 11 January 2019, a ruling was adopted by the Constitutional Court regarding the compliance of clause 5 of Section 1 of Article 43 of the Law on the Legal Status of Aliens with the Constitution of the Republic of Lithuania.¹² An application of the Supreme Administrative Court of Lithuania was examined in the constitutional proceedings regarding the possibility for a same-sex spouse to be considered a family member to obtain a temporary residence permit to live in Lithuania with his/her spouse who is a citizen of the Republic of Lithuania. It should be noted that the case examined the issue of recognising a same-sex spouse (partner) as a family member in the field of migration law, but failed to address the issue of recognising same-sex marriages concluded abroad in a civil and legal sense.

When interpreting the content of Article 29 of the Constitution, the Constitutional Court has stated for the first time that “one of the forms of discrimination prohibited under Article 29 of the Constitution is the restriction of human rights on the grounds of one’s gender identity and/or sexual orientation, which is also to be regarded as a violation of human dignity”.¹³ The Constitutional Court noted that only a state guided by respect for the dignity of every human being can be considered a truly democratic state. The court reiterated in the discussed ruling that parts 1–2 of Article 38 of the Constitution, which provide for the constitutional concept of family, cover not only family relations established based on marriage between a woman and a man, but also families living out of wedlock. It is clear from the evolving case law, which is in line with the practice of ECHR regarding the interpretation of Article 8 of the European Convention on Human Rights, that the constitutional protection of family applies to both marital and non-marital families. The Constitutional Court reaffirmed the fact that in social reality family life is lived not only after marriage but also in a formalised or de facto family partnership. What matters is the content of the family relationship, not the form.

Compared to the ruling of 28 September 2011, in which the Constitutional Court made an abstract reference that the concept of family should be interpreted in light of international treaties, the ruling of 11 January 2019 emphasised very clearly that “the constitutional concept of family (...) is gender-neutral”. However, in this respect, the court made a distinction between marital and non-marital families. According to Section 3 of Article 38 of the Constitution, a marital family is formed between a man and a woman, and according to the court, a different interpretation of marriage would require an amendment to the Constitution. Both same- and opposite-sex couples can form out-of-wedlock family relations. According to the Constitution, all non-marital couples living a family life, regardless of whether they have formalised their relationship legally (if permitted by applicable law) or are simply living as a family, are entitled to legal protection. The court also stated that all families that comply with the constitutional concept of family based on the content of permanent or long-term family relations are protected and defended in accordance with the principles of equality and non-discrimination.

In this regard, the court expressed its opinion that, in accordance with the principle of equality, all families are worthy of legal protection and different legal regulation of state care and family support can only be established based on objective criteria.

According to the stance of the Constitutional Court, the content of Article 38 of the Constitution is clear: the constitutional concept of family applies to both married couples of the opposite sex, as well as non-marital family relations formed between couples of the opposite sex and between same-sex couples. This also guarantees the right to respect for family life for same-sex couples, and the same-sex couple can be recognised as family members in respect of each other. Moreover,

if the state does not protect same-sex couples living as a family, the issue of violation of the Constitution could be raised – particularly parts 2–3 of Article 21 (degrading human dignity), Article 22 (right to respect for private and family life), Article 29 (principle of equality) and Section 2 of Article 38 (family protection).

It is also expedient to mention the judgment of the Court of Justice of the European Union of 2018 in the case of *Coman and Others*¹⁴, which interpreted Section 1 of Article 21 of the Treaty on the Functioning of the European Union guaranteeing the right of EU citizens to move and reside freely within the EU. In its judgment, the court noted that the term “spouse” used in the context of the free movement of persons within the EU means a person who is married to another person; this concept is gender-neutral and may refer to an EU citizen’s spouse who is of the same sex.

However, the court judgments do not address the issue of the legal protection of opposite-sex and same-sex family partnerships. The problem of legal uncertainty remains. Justice requires for the state not only to grant permission to same-sex couples to live in Lithuania as family members, but to also consider such couples as families in the sense of all legal relations.

This requires legal certainty, which can only be achieved through the adoption of a legal act, governing the legal relations of family-based partnerships (preferably amendments to Book 3 of the Civil Code). Otherwise, even if in theory the lives of same-sex couples’ families are protected by the Constitution, achieving actual legal protection will only be possible through the protection of rights in specific individual cases. It is therefore necessary to implement a general instrument in line with the human rights standards, i.e. general regulation of the legal relations (personal non-property and property) of family-based partnerships. After the discussed ruling of the Constitutional Court, there are no legal obstacles to the adoption of such legal regulation, as this would not contradict the constitutional concept of family, which also includes unmarried same-sex couples living as a family.

It should be noted that, over the past years, there has been a slight increase in the number of people who would welcome the legalisation of same-sex partnerships and marriages. Nevertheless, as shown by a representative sociological survey commissioned by the Lithuanian Chamber of Notaries, the majority of the country’s population follows a conservative traditional approach to marriage and partnership. According to a survey conducted in February of 2019 by the public opinion and market research centre Vilmorus under the commission of the Lithuanian Chamber of Notaries, 13 percent of respondents support the proposal to register same-sex partnerships, the views of 11 percent in terms of this proposal are satisfactory, and 66 percent of respondents disagree with the proposal. Compared to 2017, when a similar survey was conducted, the number of respondents supporting same-sex partnerships increased from 11 to 13 percent, those who do not object the partnerships increased from 9 to 11 percent, and respondents who disagree with the legalisation of same-sex partnerships lowered from 69 to 66 percent. In 2016, there were 11 percent of respondents supporting same-sex partnerships, and 74 percent of those who disagreed with their legalisation.¹⁵

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Reproductive Rights and Sex Education

Vilana Pilinkaitė Sotirovič

Right to Choose Abortion

During the entire period of Lithuania's independence from 1991 to the present, no law on reproductive health has been adopted in the Republic of Lithuania which would regulate matters concerning family planning and reproductive health. The right to terminate pregnancy up to 12 weeks is granted by the Order of the Minister of Health "On the Procedure for Performing Abortion" adopted in 1994¹. A pregnancy over 12 weeks can only be terminated if it poses a threat to the pregnant woman's life and health, and girls under the age of 16 can only undergo abortion with parental consent.² According to the order, girls aged 16–18 seeking abortion should preferably have the written consent of one of their parents, adoptive parents or guardians.³

According to the statistical data of the Institute of Hygiene, the number of induced abortions in Lithuania is decreasing every year;⁴ it has dropped by almost a half from 6 989 abortions in 2010 to 3 590 in 2018 over the last eight years.⁵ According to experts, approximately 6 percent of all abortions are performed on girls under the age of 19 due to lack of access to contraception, appropriate information and proper sex education.⁶

Other studies point to socioeconomic and psychological factors that influence abortion. A survey of women who have given birth and their partners / men was conducted at the Vilnius Maternity Hospital, revealing that, according to the respondents, the main reasons why women terminate their pregnancies are financial difficulties, lack of emotional support and pressure from the child's father or relatives.⁷ Other research conducted in Lithuania shows that there are still significant differences between the birth rates among adolescents living in rural and urban areas: the rate is twice as high in rural areas compared to urban areas. This is the result of lack of information about contraception as well as access to it.⁸

The so-called medical abortion is widely used for early termination of pregnancy in many countries around the world, however, it is not available in Lithuania. Some doctors believe that medication for this type of abortion can be obtained illegally online, but they are not necessarily intended to terminate a pregnancy and can in turn be detrimental to a woman's health.⁹ The availability of medical abortion could help resolve ethical challenges arising from the beliefs of some physicians. There is now a number of young doctors who refuse to learn how to perform an instrumental abortion due to their beliefs, thus legalisation of medical abortion would help resolve this issue.¹⁰

The UN Committee on the Elimination of Discrimination against Women (hereinafter – Committee) encouraged Lithuania to address its unresolved problem regarding legal regulation of abortion. After considering the Sixth Periodic Report of Lithuania in 2019, the Committee recommended regulating abortion by law rather than by a minister's order, and ensuring that all women have access to essential services, health care, safe abortion procedures as well as provision of necessary post-abortion services.¹¹ The Committee noted that, although Lithuania has a universal health insurance system, not all young women and girls living in rural areas or because of their ethnic origin, especially those belonging to the Roma ethnic group, have access to health care services, including reproductive health care services and modern contraceptives.¹²

Gaps in Access to Contraception

The European Parliamentary Forum for Sexual and Reproductive Rights conducted a study in 2019 on the availability of contraceptives in 46 European countries. The study sought to clarify the role of the

state in providing quality information and counselling services and ensuring the availability of modern contraceptives. The conducted study produced a “contraception atlas”¹³ according to which Lithuania falls into the fourth category of countries (there are six in total) where changes are barely noticeable, and the stability and sustainability of measures implemented by the state are not ensured.¹⁴

Research data has shown that the availability of contraception in Lithuania is low – contraceptives are not reimbursed to any Lithuanian women. Young girls under the age of 19 and women from vulnerable groups (unemployed, low-income earners, etc.) are not provided with any special compensation mechanisms; therefore, no such mechanisms apply. The availability of information is also quite low – there are no state-sponsored sources of information and there is a lack of information on various and especially modern methods of contraception. These problems affect socially vulnerable women and girls living in poverty.¹⁵

Research data has shown that the availability of contraception in Lithuania is low – contraceptives are not reimbursed to any Lithuanian women.

Experts note that women are more likely to experience unplanned pregnancy in countries with limited access to contraception as well as lack of quality reproductive health care services and information on modern methods of contraception.¹⁶ A sociological study conducted in 2018–2019, analysing the experiences of pregnant adolescent girls living in peripheral¹⁷ Lithuanian municipalities, confirms that there are cases when young girls lack knowledge about contraceptives and information about their availability. Young women and men are still often convinced that there will be no consequences from their first sexual intercourse, thus they do not think about contraception in advance¹⁸. Some surveys show that about 44 percent of young people do not use protection or any contraception during their first sexual intercourse, because it is either too expensive for them or they lack knowledge about it.¹⁹ The Ministry of Health does not envisage any additional measures or actions to raise awareness about contraceptives, improve their accessibility – especially for vulnerable groups and young people – and provide counselling.²⁰

According to gynaecologists, gaps in the contraception policy are related to the fact that adolescent girls become sexually active at an early age, however, gynaecological services, including counselling, treatment, and provision of preventive knowledge, are provided for girls under the age of 16 only with the written consent of their parents or guardians. Doctors often face the dilemma of ensuring confidentiality for juvenile patients and informing their legal representatives. Adolescent girls who come to the gynaecologist with their parents or guardians often ask the doctor not to inform their parents about their sex lives.²¹ A recent sociological study on experiences of early pregnancy among teenagers shows that when parents refuse to consent to abortion, adolescents are forced to give birth even though they would like to terminate their pregnancy.²² Experts suggest ensuring that contraception is reimbursed for sexually active adolescents. In 2019, the Lithuanian Association of Obstetricians and Gynaecologists applied to the Diseases, Medicinal Products and Medical Aids Compensation Commission under the Ministry of Health on reimbursement of contraception for girls aged 15–19.²³

The UN Committee on the Elimination of All Forms of Discrimination against Women also expressed its concerns about the lack of access to non-reimbursable contraceptives and quality reproductive health care services in Lithuania.²⁴ After considering the Sixth Periodic Report of the Republic of Lithuania, the Committee noted the limited availability of modern contraceptives for young women living in rural areas and for girls and women of the Roma ethnic group.²⁵ A recent study on the experiences²⁶ of young women who gave birth while they were still teenagers shows that, due to unplanned pregnancies and unfavourable socio-economic circumstances, young women aged 15–19 become dependent on their partners and have difficulty controlling their life situations. When summarising the data of the study, researchers have found that having a child in adolescence makes it very difficult to escape the cycle of poverty due to limited financial resources and other difficulties

related to childcare. As a result, young women in this situation tend to refuse to pursue an education or a profession, which could provide a better foundation for future life.²⁷

Right to Receive Information About Sexuality, Reproductive Health, and Rights

Although a General Program for Health, Sexual Education and Family Planning was approved by the Minister of Education in 2016,²⁸ its content and implementation raise a number of questions and problems. Human rights NGOs and Catholic organisations disagree on the terminology regarding gender and sex education that is fundamentally incompatible due to opposing approaches: on the one hand, it is based on human rights values, and on the other – on conservative traditional values.²⁹ However, the Ministry of Education and Science avoids expressing a clear position and taking responsibility for the consistency of the content in the program and implementation of the program itself.³⁰ Such ineffective policy of the Ministry of Education and Science presupposes that the implementation of the said Health and Sexual Education Program in schools depends to a large extent on the preparation and qualifications of teachers.

Very little research has been conducted in Lithuania in the past years to analyse the content and course of sex education in schools and changes in students' sexual behaviour. The results of the qualitative survey of teachers published in 2018 suggest that, when talking about sexuality related issues, teachers primarily emphasise the significance of sexual relations, as well as engaging and / or not engaging in them. Other issues such as gender identity, self-expression, gender stereotypes, and sexual orientation are presented but discussed less.³¹ Another sociological study conducted in peripheral Lithuanian municipalities with high adolescent birth rates reveals that teachers and public health professionals leading sex education classes in schools fear that providing information about contraceptives to teenagers at an early age will encourage them to become sexually active, therefore they give priority to abstinence-based education with a greater focus on the sex education of girls, ignoring the fact that boys are often the initiators of sex. The study noted that, due to a lack of methodological material, sex educators often use intimidating visual materials about abortion and contribute to the spread of various myths about the dangers of infertility due to the use of modern contraceptives or early pregnancy termination. The results of both sociological studies show that the lack of a clear position on sex education in both the education policy and schools makes it difficult for teachers to discuss gender issues, improve their competencies in this area, and provide students with a wide range of knowledge on these topics.³² There are no discussions about sexuality and sex education in schools, and teachers often feel hostility from the society, the parents and their colleagues regarding topics related to sex education.³³

In 2018, the Lithuanian Human Rights Coalition has filed a complaint with the Office of the Equal Opportunities Ombudsperson,³⁴ stating that Lithuania lacks quality educational content on sexuality. After examining the complaint, the Equal Opportunities Ombudsperson ruled that there is a lack of objective data on the alleged violation, but appealed to the Ministry of Education, Science and Sport with a recommendation to establish an accreditation procedure for teachers that would ensure content objectivity and respect for equality.³⁵ It was also pointed out that, when preparing appropriate tools and measures for teachers, it is necessary to take into account existing laws and scientific knowledge based on recognised research, and to prevent misleading and biased information and discrimination on the grounds of marital or other status, sexual orientation and its non-acceptance, gender identity and pregnancy termination.³⁶

Compulsory Sterilisation

Non-governmental organisations of people with disabilities point out that the sexual needs of the people they represent are generally ignored, and the prevailing view in society is that sex is not relevant at all for people with disabilities.³⁷ Similar trends are reflected in a study conducted by the World Health Organization, which examined the situation in Lithuania and pointed out that women with disabilities face discrimination due to limited access to reproductive and sexual health services, lack of information and counselling, and incompetence of professionals to provide such services.³⁸

A survey conducted by the Lithuanian Association of People with Disabilities at the end of 2018³⁹ confirmed that women and girls with disabilities feel that they often experience discrimination in various areas of life, including when starting a family. When asked if they had experienced discrimination in family-related areas, about a tenth of respondents indicated that they had experienced such discrimination when looking for a partner, starting a family or wanting to have children. The main reasons for such discrimination in the family field are related to discouragement to start a family and/or give birth to children. There was also mention of cases where it was difficult to obtain child care assistance, the custody of a child (or children) was taken away in the event of divorce, or the disabled person was not allowed to adopt children due to his/her disability.⁴⁰ When asked whether they agree that women with disabilities experience more discrimination in the family sector than men with disabilities, one-fifth (20.4 percent) of surveyed women agreed with this statement.⁴¹ The most frequently cited reason for greater discrimination is that it is much more difficult for women with disabilities to find a partner and start a family than for men with disabilities. Slightly less than a third of surveyed women with disabilities (31.7 percent) agree that women with disabilities experience more discrimination in the family sector than women without disabilities.⁴²

In 2018, there was a case reported by the Lithuanian press about a sterilisation procedure performed in a hospital 15 years ago during a caesarean section. Sterilisation was performed without the knowledge of the patient and her husband.⁴³ Both spouses have disabilities but claim that they are able to take care of their family. This case was examined in a private hearing of the Kaunas Regional Court on 3 July 2019, and a compensation of 31 thousand euros in non-pecuniary damages has been awarded to the sterilised woman and her spouse.⁴⁴

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Prohibition of Discrimination

4

Age Discrimination

Sarmitė Mikulionienė

In ageing societies, the need to change attitudes towards age is becoming increasingly apparent, as more and more people are beginning to recognise ageist attitudes prevalent in our society and the discriminatory practices resulting from them. There is a growing awareness of the damage that is done by these actions to us, as well as to our loved ones and the entire society.

Age discrimination is characterised by the fact that it (especially indirect) often goes unnoticed or is considered to be justified. Another distinctive feature of this type of discrimination is that age discrimination can affect people of any age, although it is most often experienced by older and younger people.¹

National Legal Context of Non-Discrimination on Grounds of Age

The main legal documents of the country – the Constitution (1992), the Law on Equal Opportunities (2003) and the Labour Code (2016)¹ – consistently reflect the policy of promoting non-discrimination on the grounds of age and age diversity, except for the Article 29 of the Constitution which contains only a general provision: “<...> all persons are equal”, with *age* remaining unmentioned among the factors that it is prohibited to discriminate against or grant privilege upon.

It becomes even more complicated with nonbinding soft law documents, such as the State's Progress Strategy “Lithuania 2030” (2012), 2014–2020 National Progress Programme (2012), Action Plan for Promoting Non-Discrimination for 2017–2019 (2017), Government Program (2016), Government Program Implementation Plan (2017; 2018), and Strategy for Demography, Migration and Integration (2018). They rarely mention the idea of non-discrimination on grounds of age and age diversity which are sometimes disguised simply as general provisions on “equal opportunities for all”. Even if certain measures are indicated, they do not have a deep, systemic approach. Therefore, it is unlikely that this set of documents could significantly promote the practical implementation of non-discrimination on the grounds of age and age diversity in the daily life of the Lithuanian society.

Situation and Trends

Based on population surveys, in 2019, almost a half (45%) of the Lithuanian adult population believed that age discrimination is still widespread in Lithuania.² More than a half of the respondents (59%) agreed with the statement that the “wrong” age of a job applicant could become a barrier to employment. Consequently, the Lithuanian population perceives age as the most important of all possible signs of discrimination, followed by disability (51%) and being Roma (41%).³

The situation of older people in Lithuania in terms of income level has deteriorated rapidly during the period under review: the number of people aged 65 and over living below the at-risk-of-poverty threshold increased by ten percentage points over the past couple of years (from 27.7% in 2016 to 37.7% in 2018), while the corresponding rates of other age groups remain relatively stable.⁴ This situation resulted from the fact that, while wages have been increasing, retirement benefits have not been indexed accordingly. The number of people living in extreme poverty (living below the absolute poverty line) has decreased among people aged 65 and over, but, in general, a much higher number of people aged 65 and over faced material deprivation in 2018 due to living below the at-risk-of-poverty threshold as compared to, for example, 2010 (37.7% and 9.6% respectively). For this reason, it can be said that, in four out of ten cases, the right of persons aged 65 and older to receive adequate minimum income is poorly implemented in Lithuania.

In 2018, 3.5 percent of Lithuanians aged 65 and over admitted that their needs to see doctors were not met.⁵ This was the case either because medical services were too expensive, they were located too far away, or the queues for doctor appointments were too long. Women aged 85 and older suffered the most – these issues were pointed out by 4% of them. The overall indicator of the unmet needs of the Lithuanian adult population to see the doctors they need was almost twice lower – 2.2 percent, and it was even lower among young people aged 16–29 – 0.5 percent. Thus, the right to access to health care services is unevenly implemented in Lithuania – access to health care services was much more difficult for older people than for younger people.

If sensitive issues with regards to the implementation of the right of the Lithuanian population to quality long-term health care services⁶ (which are particularly relevant for the elderly) were highlighted in Lithuania in 2016, then, in 2019, the attention was directed to another problem – domestic violence against older women, which often goes unnoticed in our society.⁷ Domestic violence is not only experienced by young and middle-aged women, but also by older women, the abuse of whom is seemingly “invisible” and usually lasts for decades.

Multiple Efforts to Combat Age Discrimination

One of the mechanisms already established in Lithuania to combat discrimination is an appeal to the Office of the Equal Opportunities Ombudsperson (OEOO). However, over the past years, this institution has been receiving fewer and fewer complaints about possible age discrimination: in 2016 – 61, in 2017 – 43, and in 2018 – 35 complaints.⁸ In 2018, investigations of possible age discrimination cases accounted for about 13 percent of all investigations launched by OEOO. In 2018, the majority of investigations of possible age discrimination consisted of employment related investigations (57 percent of all investigations regarding this type of discrimination). Respectively, 20 percent of the investigations were related to the field of activities of state and municipal institutions and establishments, and 14 percent – to the field of protection of consumer rights.

Even though the total number of complaints about possible age discrimination is small, the range of areas of life covered by these complaints is wide. However, the complaints of Lithuanians were not limited to the field of labour relations. People were vigilant and noticed possible discrimination on grounds of age in other areas of life as well, such as in the fields of state and self-government, education, and consumer rights. Thus, one of the most important OEOO investigations in 2018 was related to the order of the Minister of Education and Science of the Republic of Lithuania, which created preconditions for discriminating against older teachers.⁹ It was found during the investigation that the order enables allocating state budget funds to cover the severance pay of pedagogical staff on the condition that schools treat teachers with high length of experience and teachers with low length of experience differently (by dismissing the former and employing the latter), which contradicts the provisions of the Law on Equal Opportunities.

The Office of the Equal Opportunities Ombudsperson found that almost one in three complaints (30%) of age discrimination was in fact a case of intersectional discrimination, as individuals were discriminated against on several grounds: age and social status; age and gender; age and disability; age and nationality; age and language.

During the period under review, intensive activities were developed by the Equal Opportunities Mainstreaming Division of the OEOO, performing the functions of disseminating preventive and educational activities and ensuring equal opportunities assigned to the competence of the Ombudsperson.¹⁰

The period of 2018–2019 included several new initiatives, bringing together legal and natural persons for the practical implementation of the equality and diversity policy in everyday life.

In 2018, a Diversity Charter¹¹ was established in Lithuania, uniting nearly thirty Lithuanian companies from various sectors. The 1st Annual Conference of the Lithuanian Diversity Charter “Taking best out of diversity”¹² was held in 2019.

In 2019, Vilnius City Municipality established a working group for implementing the Action Plan for an Age-Friendly City, the aim of which is to create a favourable environment for people of all ages to live a comfortable, well-rounded and dignified life in Vilnius.¹³

The academic community also contributed during the period under review by exposing the intersections of sexism and ageism in combating domestic violence against older women,¹⁴ as well as systematically and critically assessing the quality parameters of instruments currently used to measure ageism and age discrimination¹⁵.

In 2019, Lithuania was included in the international sociological survey “Special Eurobarometer 493”,¹⁶ which revealed how adults in Lithuania assess the efforts of their workplace and the Lithuanian state to reduce discrimination (on all grounds):

Almost a third (28 percent) of Lithuanians thought that age diversity in their workplace was not sufficiently promoted in terms of young people, and slightly more than a third (35 percent) of respondents agreed that this has not been sufficiently done in terms of older people either.

Almost a quarter (24%) of respondents viewed Lithuania’s efforts to overcome (all types of) discrimination as effective (7–10 points out of ten),¹⁷ 40% – as average (5–6 points), and another quarter (26%) – as ineffective (1–4 points)¹⁸. In 2019, Lithuania’s efforts to combat discrimination were rated much better than in 2015, when 17 percent of respondents rated these efforts as effective and 32 percent as average¹⁹.

Almost a third (28 percent) of Lithuanians thought that age diversity in their workplace was not sufficiently promoted in terms of young people.

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Sexual Orientation and Gender Identity Discrimination

Tomas Vytautas Raskevičius

Lithuania placed 37th in 2018 and 32nd¹ in 2019 among 49 European countries in the annual review of LGBT human rights carried out by the international organisation ILGA–Europe². The improving results of Lithuania has been determined by the leadership of national courts in enforcing the rights of LGBT people through judicial proceedings. In 2018, the United Nations Human Rights Committee provided Lithuania with detailed recommendations on the prevention of discrimination on the grounds of sexual orientation and gender identity, and effective response to the negative phenomenon of hate crimes and hate speech³. Despite the legal challenges, the attitudes of Lithuanians towards LGBT people are becoming more positive, and an atmosphere supporting them is gradually building up in the public sphere. According to the data of the special Eurobarometer 493 on discrimination in the European Union published in 2019, 53% of Lithuanians agree that homosexual and bisexual persons should have the same rights as other people in the country, and 30% support the legalisation of same–sex marriages⁴. The Baltic Pride March of Equality became a mass public event – according to the organisers, the march had almost 10 000 participants⁵.

Recognition of Same–Sex Families

Lithuania is currently one of the six Member States of the European Union (together with Bulgaria, Latvia, Poland, Romania, and Slovakia) where same–sex families are not legally recognised. In 2018, the Court of Justice of the European Union adopted a historic decision in the case C–673/16⁶, stating that same–sex marriages concluded in any Member State of the European Union must also be recognised in all other Member States in the context of the free movement of citizens. This principle was directly applied in Lithuania in 2019 by the Constitutional Court of the Republic of Lithuania, by ordering the issue of a permanent residence permit in Lithuania to a Belarusian citizen who had entered into a same–sex marriage with a Lithuanian citizen in Denmark⁷. Although in this particular case the Constitutional Court examined a narrow legal issue, the court did not miss the opportunity to speak more broadly on important matters relating to LGBT human rights.

Firstly, the Constitutional Court has held that Article 29 of the Constitution prohibits discrimination on the grounds of sexual orientation and (or) gender identity, and such discrimination is to be regarded as degrading human dignity (see paragraph 31.2 of the Ruling). Although this article of the Constitution enshrines a closed list of grounds for prohibited discrimination, the Constitutional Court has repeatedly ruled that in order to ensure the constitutional principle of equality, this list must be interpreted broadly.

Secondly, the Constitutional Court reiterated its position that the Constitution is an anti–majoritarian legal act which primarily protects the individual (see paragraph 31.3 of the Ruling). In this context, the Court further clarified that “the attitudes and stereotypes of the majority of members of society prevailing over a certain period of time in a democratic state governed by the rule of law cannot be constitutionally justifiable grounds [...] for discrimination against persons solely on the basis of their gender identity and (or) sexual orientation”.

Thirdly, the Constitutional Court confirmed that the constitutional concept of family is gender neutral, and, according to the Constitution, it is necessary to protect and defend all families complying with the constitutional concept of family, based on the content of permanent or long–term family relationships, i.e. based on mutual responsibility, understanding, emotional attachment, assistance and similar relations between family members and a voluntary commitment to assume certain rights

and responsibilities (see paragraph 32.5 of the Ruling). In other words, the Constitutional Court confirmed that, according to the Constitution of the Republic of Lithuania, same-sex couples are considered a family.

Even though the ruling of the Constitutional Court did not legalise same-sex marriages or partnerships in Lithuania and did not recognise same-sex unions formed abroad in the context of Lithuania's civil family law, this decision will undoubtedly have a significant impact on the further development of LGBT human rights in the country.

Protection of the Rights of Transgender Persons

Lithuania remains one of the few European countries where the possibility for transgender people to change their identity documents and receive necessary health care services is not regulated at all. In 2007, the European Court of Human Rights stated in the case of *L. v. Lithuania*⁸ that the non-existent gender reassignment procedure violates the right to privacy enshrined in the Convention. More than a decade later, this judgment of the Strasbourg Court still remains to be implemented.

In 2017, Lithuanian national courts developed a progressive jurisprudence, when identity documents for transgender persons are changed by the court solely on the basis of a psychiatrist's diagnosis and subjective identification of a person as belonging to a specific gender. This way, the right to recognition of gender identity was exercised by 14 persons in 2018, and 9 persons in 2019⁹. While the possibility of changing one's identity documents through court proceedings is unequivocally a positive step forward, the right to recognition of gender identity should be exercised through administrative procedures rather than through litigation. Adoption of the Law on Recognition of a Person's Gender Identity would substantially resolve the situation. Although a draft of the law was prepared by the Ministry of Justice in 2017¹⁰, it was never submitted to the Parliament for consideration.

In 2019, the Office of the Equal Opportunities Ombudsperson issued a national review of the situation of transgender persons in Lithuania¹¹. An assessment of both social and legal situation of transgender persons has shown that, after exercising their right to recognition of gender identity by court procedure (i.e. after changing their identity documents), transgender persons face various practical challenges in various areas of life (for example, when receiving health care services, ensuring the protection of personal data, changing documents certifying one's acquired education, etc.). For this reason, it is essential to adopt the necessary legislation without delay and to introduce a horizontal prohibition of discrimination on the grounds of gender identity.

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Hate Speech and Hate Crimes Against LGBT Community

Hate speech and hate crimes against LGBT people, as well as the ineffective response of law enforcement authorities to this negative phenomenon remain a sensitive issue. In the summer of 2018, the doors of the office of a non-governmental organisation representing LGBT human rights and the doors of the apartment of the long-standing head of this organisation have been set on fire in Vilnius¹².



Photograph of Pijus Beizaras and Mangirdas Levickas that received a wave of hate comments on Facebook (photo from personal archive)

During the pre-trial investigation, law enforcement authorities avoided classifying this incident as a possible hate crime, and the perpetrators of the arson were not identified. Individual members of the LGBT community also face hate crimes. For example, in the summer of 2019, a gay couple was attacked and beaten in the stairway of their multistorey apartment building in Vilnius¹³. Even though the offenders insulted the young men with homophobic slurs during the attack, the pre-trial investigation officers classified this incident only as a disturbance of public order – the victims themselves had to prove the motive of hatred during the criminal proceedings.

In January of 2020, the European Court of Human Rights issued its judgment in the case of *Beizaras and Levickas v. Lithuania*¹⁴ regarding the failure of law enforcement authorities to investigate cases of homophobic hate speech online. The Strasbourg Court stated that the prosecutor's office and the national courts illegally failed to launch a pre-trial investigation regarding homophobic hate comments posted on the social network Facebook, thus discriminating the applicants on the grounds of their sexual orientation (i.e. violation of the right to respect for private life). Having assessed the applicants' arguments and reports of international institutions on the situation of hate crimes in Lithuania, the ECHR concluded that our country has no effective legal remedies against homophobic hate speech, thus, in addition, a violation of the right to an effective remedy was established. It is expected that the said decision of the Strasbourg Court will encourage Lithuanian law enforcement authorities to take systemic reforms in order to effectively respond to hate crimes and hate speech directed against LGBT persons.

Restrictions on LGBT People's Freedom of Expression

Lithuania is currently the only country in the European Union that has a law prohibiting the so-called "homosexual propaganda". Paragraph 16 of Article 4(2) of the Law on Protection of Minors against Detrimental Effect of Public Information provides that minors are adversely affected by information which scorns family values, and promotes a different [...] concept of marriage and family formation.¹⁵ Even though this provision of the law has not been applied by the state institutions for some time, various interest groups are purposefully trying to manipulate it in order to censor public information related to LGBT human rights. In 2018, Lithuanian Institute of Christian Culture sent leaflets to Lithuanian residents by mail, inviting them to sign a petition to ban the Baltic Pride March for Equality. Ironically, the Office of the Inspector of Journalist Ethics stated in 2019 that the information disseminated by the Institute of Christian Culture itself should be classified as hate speech¹⁶. Similarly, in the autumn of 2019, conservative public groups applied to the Lithuanian Radio and Television Commission with a request to censor the documentary show "Colours" published on LRT website, as it explored the topic of children growing up in same-sex families. The Commission concluded that the TV show did not infringe any statutory provisions¹⁷. Despite this positive practice of (non-)application of the law, the legislators did not take any steps to change this discriminatory provision of the discussed law.

In addition to the challenges related to ensuring LGBT human rights, positive changes were observed in Lithuania between 2018 and 2019. In September 2018, Linas Linkevičius, the Minister of Foreign Affairs of the Republic of Lithuania, visited the LGBT Community Centre in solidarity with the LGBT community facing hate crimes¹⁸. During the municipal council elections held in spring of 2019, the first openly gay politician was elected to the Vilnius City Municipal Council who has actively declared his support for LGBT human rights during the entire election campaign¹⁹. In June 2019, ten international and national business companies publicly expressed their support for the Baltic Pride week events via the "rainbow" promotion of their products²⁰. These positive social developments suggest that the Lithuanian society is gradually becoming more open to matters related to LGBT human rights, and these changes will inevitably have a positive impact on ensuring the legal protection of LGBT people in the near future.

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Gender Discrimination

Ugnė Litvinaitė

The Gender Equality Index of the European Institute for Gender Equality, updated in 2019, showed Lithuania to be the only EU member state that has not made any progress in the field of gender equality since 2005, when the index was launched¹. According to the latest data, the situation of gender equality in the country is estimated at 55.5 out of 100 percent (EU average – 67.4 percent). The indicator in Lithuania is 0.3 percent worse than in 2005 and 1.3 percent lower than in 2017. As gender inequality decreased in other EU countries (overall, the EU indicator improved by 5.4 percent), Lithuania has been stagnant and even regressing, as it fell by 7 positions in the specified ranking since 2005 and was placed 23rd (out of 28 member states) in 2019.²

Decision Making

The greatest inequality is observed in the field of power, or decision-making (gender equality rating in Lithuania was 32.5 percent, compared to 51.9 percent in the EU), especially in the economic sphere of life. Women comprised only 13.5 percent of the members of supervisory and management mechanisms, supervisory boards and management boards of the largest Lithuanian business companies between 2016 and 2018, while the average number of women who were members of management bodies of companies in the EU reached 25 percent. In addition, women comprised only 7.7 percent of the Board of the Central Bank of Lithuania (2.5 times less than in the EU).³

The number of women in Lithuanian political and social decision-making institutions was lower than in the EU – from 3.6 percent (in regional councils) to 7.5 percent (in parliament), when calculating the average for the period from 2016 to 2018.⁴ Women comprised only about one-fifth of the Seimas members on average during that period⁵, which was the same percentage as at the beginning of the century⁶. At the same time, the number of women ministers has been steadily increasing (16 percent in 2004–2006, and 24 percent in 2014–2018)⁷, however, at the beginning of 2019, Lithuania became the only EU country led by a male-only government⁸. This seemingly random development, accompanied by sexist comments from the politicians involved⁹, became a symbolic illustration that structural changes ensuring equal participation and representation of both sexes in politics have not yet been achieved. This issue has been noted by the United Nations (UN) Committee on the Elimination of Discrimination against Women. Recommendations issued to Lithuania in November 2019 regarding implementation of the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) expressed concern that only 1 out of 14 ministers in Lithuania was a woman, and that only one party applied voluntary quotas for candidacies in last parliamentary elections¹⁰.

The UN Committee on the Elimination of Discrimination against Women urged Lithuania to adopt and implement temporary special measures that would accelerate gender equality (such as gender quotas) in all areas where women are under-represented, including areas related to political and public life, education and employment, under the initiative of the legislator and policy makers, as well as the initiative of private sector representatives.¹¹ To achieve this, Lithuania should firstly eliminate legal barriers by providing for the possible application of such measures by law.¹²

Gender segregation, both vertically (positions held) and horizontally (distribution among occupational fields), is evident in Lithuania in educational institutions and in the distribution of jobs¹³. Moreover, both the labour market and the education system are not inclusive of migrant women, Roma, women living in rural areas, older women and women with disabilities.¹⁴

Time, Work, and Family Life

Significant gender inequality is also observed in the sphere of time-use due to the unequal burden of housework and caretaking responsibilities placed on women¹⁵. It should be noted that, although Lithuanian women are more active in the labour market and have better career prospects compared to the average European woman, this does not eliminate the financial inequality that is more pronounced in Lithuania than in the rest of the EU, especially among people with children¹⁶. Time spent on unpaid domestic work at home and poor conditions for balancing motherhood (fatherhood) and work contribute to lower wages for women and, consequently, the risk of poverty in retirement or after losing her partner¹⁷. Unappreciated and disproportionate amount of time spent on the family and household chores impacts the wellbeing of women living in rural areas particularly¹⁸.

In 2019, the UN Committee on the Elimination of Discrimination against Women called on Lithuania to recognise the social value of domestic and child-rearing work carried out by women, by providing them with pensions and social guarantees, and to develop opportunities for women to balance their family life and work responsibilities by first of all ensuring affordable childcare services.¹⁹ Lithuania has not yet achieved the objectives of Barcelona set by the European Council, which provided in 2002 that 33 percent of children under 3 years of age and 90 percent of preschool children from 3 years of age should receive formal care services. According to 2017 EU-SILC data, such care was provided to 20 percent²⁰ and 80 percent of children, respectively.²¹ Lithuanians also report having significantly less flexibility at work than other Europeans²².

The exclusion of women who have children from the labour market, which later leads to a widening gender pay gap, is closely linked to the childcare benefit policy. Under current procedures, childcare benefits are paid during the first year of a child's life as income compensation, thus mothers or fathers who take care of a child but continue working usually lose this compensation. Nevertheless, draft amendments to the Law on Sickness and Maternity Social Insurance, which proposed to create conditions for parents to work or receive income without losing their childcare benefits, were rejected by Lithuanian Parliament²³. In order to involve parents more in raising their children and reduce the discriminatory consequences suffered by women, the application of the EU directive adopted in 2019, which provides for two months of non-transferable parental leave for both parents,²⁴ is being discussed in Lithuania²⁵. In addition, extended entitlement to childcare benefits not only for one of the parents (foster parents) and carers, but also for one of the working grandparents is likely to improve the situation of working mothers,²⁶ but may negatively affect the employment opportunities of older women. On the other hand, from 2020, adoptive parents will be treated the same way as biological parents by receiving a 24 month parental leave, regardless of the age of the newly adopted child²⁷. Moreover, parents will be able to receive sickness benefits for the care of primary school pupils if an epidemic is declared at their school. Up until now, such benefits have only been paid for parents of preschool children.²⁸ A basic package of services for the family has also been approved.²⁹

The ruling of the Constitutional Court (CC) adopted in 2018 on the right of women who have terminated their professional activities to receive maternity benefits stopped the discrimination of self-employed women who previously did not receive financial support after becoming mothers. After the entry into force of the CC ruling, all women with the necessary length of social insurance specified in the Law on Sickness and Maternity Social Insurance (at least 12 months in the last 24 months) who have terminated their professional activities until the date on which they become entitled to paid leave before and after childbirth in accordance with the procedures laid down by law shall have the right to receive maternity benefits.³⁰ Following the adoption of the relevant amendments to the Law, women who did not work during their entire pregnancy were in a worse position³¹, however, in the end, the Seimas approved amendments to the Law enabling mothers who did not work during their entire pregnancy to receive maternity benefits, provided that they have the required length of social insurance.³²

Stereotypical Attitudes

According to a representative survey commissioned by the Office of the Equal Opportunities Ombudsperson (OEOO) in 2018, discriminatory, sexist and patriarchal attitudes towards gender remain

It should be noted that the Lithuanian legal framework does not have any legal provisions prohibiting intersecting forms of discrimination against women, nor does it introduce a legal definition that would separate biological sex from social gender. ●

widespread in the Lithuanian society³³. For example, as many as 58 percent of Lithuanians agree that it is the wife's duty to take care of her husband's household, and 61 percent agree that the husband should earn more than his partner. 41 percent of respondents also agreed that "it is the wife's duty to have sex with her husband".³⁴

In the public sphere, stereotypical attitudes are solidified by the sexist portrayal of women. In 2018, OEEO investigated 11 cases of possible derogation of women in the advertisements of goods and services. In the 2018 Annual report of the OEEO, it is noted that the objectification of women in the advertisements of goods and services, particularly the portrayal of women as sex objects, is still widespread in the public sphere³⁵. Some ads have also been found to violate the anti-discrimination laws.³⁶

A review of the evaluation of teaching / learning tools in terms of gender carried out in 2019 showed that stereotypical representation of genders is typical in modern textbooks used by 6-7th grade pupils in Lithuania.³⁷ Moreover, discriminatory and patriarchal attitudes were taught to students as part of their sex education program.³⁸ False information about sexual health and sexuality that does not comply with the human rights was also provided to teachers in programs accredited by the Ministry of Education, Science and Sport.³⁹ In addition, a complaint received by the OEEO regarding unequal opportunities for both girls and boys to choose a technology subject program in one of the capital's gymnasiums⁴⁰ shows that the stereotypical approach prevailing in schools may also limit students' possibilities to learn.

Stereotypical early and secondary education is thought to lead to gender segregation in higher education. In 2017, only 13 percent of graduates in the field of information and communication technologies were women, and only 23.4 percent in the field of health care and social welfare were men.⁴¹ Such horizontal segregation also contributes to financial inequality⁴².

UN experts recommended Lithuania to implement continuous evaluation and reform of its education program with the help of gender equality experts, and develop a separate action plan to reduce the prevalence of gender stereotypes in teaching / learning materials and curricula.⁴³ It was also proposed to strengthen the mandate of OEEO's preventive educational activities through the implementation of broader campaigns, particularly with regard to media's education and ethical control.⁴⁴ It is observed that the Law on Strengthening of the Family⁴⁵, which entered into force in 2018, may promote discriminatory roles and responsibilities assigned to women and men in the family and society, therefore it is necessary to monitor and assess its impact on discriminatory attitudes.⁴⁶

Discrimination

Investigations regarding possible gender discrimination have accounted for most of the investigations launched by the OEEO since 1999. In 2018, such investigations comprised 32 percent of all the launched investigations. Half of these investigations were related to possible violations in the field of labour relations, most often due to potentially discriminatory job advertisements, when the title of the offered position is indicated in the feminine noun. The 2018 Annual report of the OEEO notes that feminine noun is usually used to advertise low-skilled positions that are traditionally female-dominated, such as "saleswoman/shopwoman, cleaner, housekeeper, helper, washer or assistant" (normally, in the Lithuanian language, masculine nouns are used as neutral). In 2018, several cases where gender and age requirements were imposed on the applicant in job advertisements were also investigated.⁴⁷

Consumer rights protection is another area with a lot of investigated gender discrimination cases. Cases were investigated where different service prices or discounts have been indicated based on gender⁴⁸. On the other hand, with the promotion of the OEEO social campaign "Price Has No Gender", gender-based pricing in the beauty industry is gradually being abandoned.⁴⁹

Following the 2017 amendments to the Labour Code, which require an employer with an average number of employees of more than 50 to adopt and publish equal opportunities policy implementation measures using conventional methods,⁵⁰ there has been an increase in the number of requests from companies and organisations regarding practical implementation of equal opportunities⁵¹. In

2018–2019, a number of measures and initiatives were implemented to ensure equality in the field of labour relations⁵². However, it should be noted that there are no mechanisms to monitor and evaluate the implementation of equal opportunities policies in the workplace⁵³.

Knowledge and Enforcement of Rights

Despite the record number of appeals received by OEOO⁵⁴ during the previous reporting year (2018), UN experts point out that the number of complaints on gender discrimination is low, particularly those filed by women and girls with disabilities. This is associated with the limited availability of legal advice, especially for women belonging to minorities, women living in rural areas, women with disabilities, migrant women, elderly women and women belonging to the LGBT* community. The Committee also expressed concern about the low level of public awareness regarding the CEDAW Convention and its fragmented implementation.⁵⁵

It should be noted that the Lithuanian legal framework does not have any legal provisions prohibiting intersecting forms of discrimination against women, nor does it introduce a legal definition that would separate biological sex from social gender.

There is a lack of a systematic and strategic approach to the planning and implementation of measures to ensure gender equality. The 2018–2021 Action Plan for the implementation of the National Programme on Equal Opportunities for Women and Men 2015–2021, the main document setting actions for the government's gender equality policy agenda, was being drafted for 11 months and has been adopted six months before the implementation of all measures planned for 2018.⁵⁶ As indicated in the Independent Review of the said Plan carried out by the OEOO, many of the measures are fragmented and formal, with no ambitious or significant scale of implementation; and the transparency of the process is also questionable.⁵⁷ According to the UN recommendations, the activities of the Commission on Equal Opportunities for Women and Men approving the plan should be reorganised so that the Commission would not be responsible for both formulation of policy measures and control of their implementation at the same time.⁵⁸

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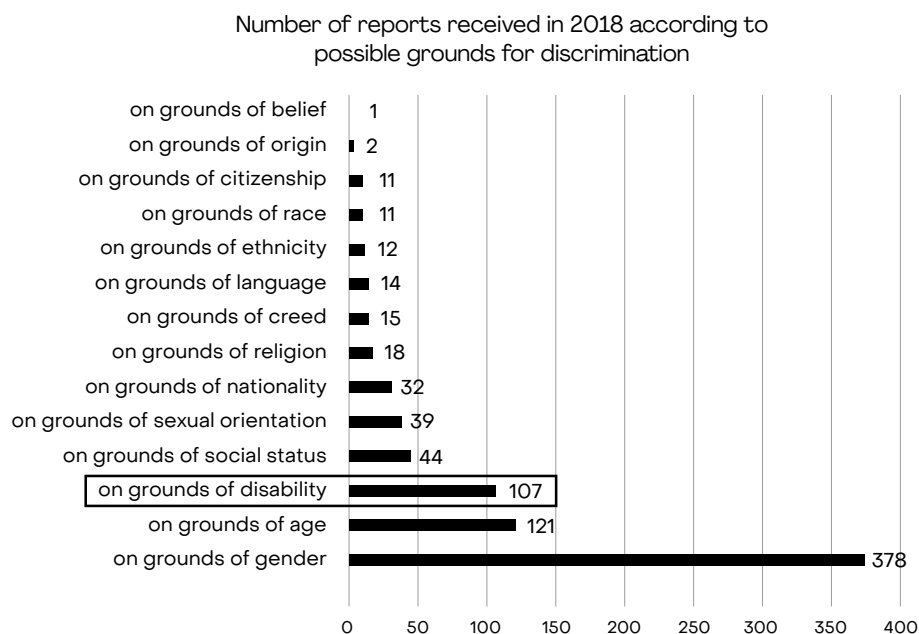
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Disability Discrimination

Ugnė Grigaitė

Data by the Office of the Equal Opportunities Ombudsperson

In 2018, the Office of the Equal Opportunities Ombudsperson (hereinafter – OEEO)¹ received 107 complaints regarding possible discrimination on the grounds of disability (which accounted for 11 percent of all complaints received that year). It was found that disability discrimination cases were more common in state and municipal institutions and establishments. The OEEO mostly received complaints from persons with reduced mobility regarding restrictions of their rights in the field of services provision. It should also be noted that compared to the previous year, the OEEO recorded a significant increase in the number of persons with disabilities who sought legal advice in 2018.



In 2019, the OEEO launched 42 investigations of possible discrimination cases on the grounds of disability, of which 2 were carried out at the initiative of the Equal Opportunities Ombudsperson herself. Most investigations were carried out in the field of consumer rights protection (22 investigations). 9 investigations were launched in the field of labour relations, 6 – in the field of state and municipal institutions (due to potentially discriminatory legal acts), and 1 – in the field of education. Violations have been identified in 6 cases, several cases are still undergoing investigation, and discrimination will possibly be established in 3 more cases. In 2019, investigations were terminated in 4 cases since violations were eliminated when the OEEO launched the investigation. 352 persons with disabilities or persons representing them received consultations by telephone and at the office.²

Following the proposal by the OEEO, amendments to the Law on Public Information entered into force on 1 April 2018, prohibiting incitement to hatred, bullying, discrimination, violence against and harsh treatment of a group of people or a person belonging to it, including disability as one of the possible grounds for such actions.³

In 2018, an investigation was launched by the OEOO⁴ regarding the accessibility of services provided by the Vilnius TV Tower to persons with reduced mobility, visual, and intellectual disabilities. The investigation was initiated following the information being received that “information was published on the website of Vilnius Television Tower that persons with reduced mobility who use wheelchairs cannot access the observation deck and the cafe–bar “Paukščių takas” (English: Milky Way) located on the 19th floor of the TV Tower, due to lack of emergency evacuation possibilities resulting from non-working elevators. Persons with reduced eyesight using a white cane or guide to move around, and persons with intellectual disabilities in need of assistance may only enter the facilities with an accompanying person”.⁵

A decision was made in the course of the investigation to oblige Vilnius TV Tower to provide its services to persons with limited mobility several days a year by announcing the relevant dates in advance and making sure that trained security guards or volunteers of the Lithuanian Riflemen's Union are on duty at the TV Tower during these days. This decision was made because “the structure of the tower would make it more difficult for persons with reduced mobility to evacuate in emergency situations; it was stated that such method of providing services proposed by the company administering the tower would meet the minimum statutory requirement for service providers to ensure the right of persons to receive services, regardless of disability”.⁶ It should be noted that such a decision does not comply with the provisions of the UN Convention on the Rights of Persons with Disabilities and does not provide people with disabilities access to the services provided by the Vilnius TV Tower on an equal basis with others.

Another investigation launched by OEOO⁷ in 2018 on possible disability discrimination was directed towards Kaunas Žalgirio Arena since it was not adapted for persons with reduced mobility. Many of the suggestions provided following the OEOO investigation were taken into account by the arena administration. For example, improvements have been implemented both in the layout of seats in the auditorium and in the possibility for people with disabilities to choose seats by purchasing tickets to sports and cultural events at Kaunas Žalgirio Arena online⁸.

Rights of Women and Girls with Disabilities

In 2018, a survey of women and girls conducted by the Lithuanian Society of Persons with Disabilities⁹ revealed that 41 percent of women and 53 percent of girls with disabilities claim to be discriminated against. Discrimination was shown to be encountered in various areas, such as healthcare, rehabilitation and nursing services, mobility-enhancing services and measures, as well as labour and employment. 9 percent of women revealed that due to their disability they had been discouraged from having children, even by involuntary and forced sterilisation, abortions, or contraception without their informed consent. 32 percent of women and 39 percent of girls also reported having experienced psychological abuse, 21 percent and 23 percent – physical violence, 6 percent and 4 percent – harassment or sexual violence.

Reasonable Accommodation for Persons with Disabilities

Recommendations issued to Lithuania in 2016 by the UN Committee on the Rights of Persons with Disabilities indicated that the state must take all necessary legal, judicial and administrative measures to: a) promote, ensure and monitor the provision of reasonable accommodation for persons with disabilities in all public and private sectors; b) recognise the denial of reasonable accommodation as a form of discrimination on the basis of disability.¹⁰

In light of the recommendations, an amended draft of the Law on State Support for the Acquisition or Rental of Housing was passed by the Seimas on 12 February 2019, improving some conditions for providing support to persons with disabilities and their families.¹¹ Corrections to the original draft law submitted by the Ministry of Social Security and Labour were proposed by the OEOO, since the original version of the draft law only partially complied with provisions of the UN Convention on the Rights of Persons with Disabilities¹².

Unfortunately, people with disabilities still often face a lack of reasonable accommodation, which is a form of disability discrimination. For example, in 2018, the Seimas Ombudsmen's Office investigated a complaint regarding improper actions by Vilnius City Municipality (hereinafter – VCM) administration officials in connection with the provision of inaccessible social services to a person with a disability. The VCM commission made a decision to provide the applicant's son with day social care services via an institution providing such services. However, when the applicant went to this facility, it became clear that the institution did not provide the necessary conditions, i.e. premises in this facility were not adapted nor accessible to persons with physical disabilities.¹³

The obligations of Lithuanian Railways assumed under the regulation on the adaptation of trains for people with disabilities have also not been fulfilled for 12 years. At the end of 2019, after intensive discussions and meetings with the Lithuanian Disability Forum (hereinafter – LNF) and other organisations representing people with disabilities, Lithuanian Railways finally presented their vision and plan on the adaptation of infrastructure and carriages for people with physical disabilities by 2024¹⁴.

Elections Accessibility

In 2018, LNF together with its member organisations completed four different analyses of services provided by Lithuanian municipalities¹⁵. The results of these studies, together with recommendations, were presented to representatives of specific municipalities and local disability organisations.

One of these analyses was about the physical accessibility of polling stations in VCM for people with disabilities. The analysis¹⁶ revealed that neither the Central Electoral Commission (hereinafter – CEC) nor the VCM have accurate data on the accessibility of polling stations for people with disabilities. For example, the CEC provides only outdated data from 2016, while VCM has more recent but inaccurate information – according to the analysis, 11 percent fewer polling stations were actually physically accessible for persons with disabilities than it had been claimed.

It should be noted that as many as 89 percent of the assessed VCM polling stations are located in educational institutions, which reveals another significant problem – most educational institutions within VCM are inaccessible to pupils and students with disabilities. Even those schools that are physically adapted for persons with disabilities can only be accessed via a different entrance instead of the main entrance, and there are no clear signs which would enable people to easily find this entrance. In other cases, persons with disabilities are unable to access these schools from car parks since it is impossible to get a wheelchair onto steep sidewalks, and many schools do not even have parking spaces accessible to people with disabilities. Other common problems include sanitary rooms being inaccessible, as well as overly steep ramps completely unsuitable to be used by persons with disabilities.

In 2019, LNF and its member organisations also carried out a more extensive monitoring of the elections regarding the right to vote for people with not only physical but also other types of disabilities. 34 LNF observers who received official permits from the CEC for election observation recorded violations in polling stations which did not ensure persons with visual disability the necessary conditions and reasonable accommodation to vote, and information provided in these polling stations was inaccessible to persons with intellectual disabilities. LNF member organisations also monitored the conduct of the elections and the possibility for persons with disabilities, persons living in social care institutions, as well as persons with disabilities serving their sentences in prisons to vote appropriately, comfortably, and with dignity. LNF observers submitted their comments on observed violations to both the CEC and to the public organisation “White Gloves”.

Amendments to the Law on Elections to the Seimas¹⁷ were initiated at the end of 2019 and adopted on 14 January 2020, which better ensure the rights of voters with disabilities during elections. The legal act establishes that ballot papers and other electoral material (publicly available audio-visual information on elections, candidate debates, and information on electoral procedures) must be fully accessible to persons with disabilities and made available in an understandable language and Easy-

to-Read format.¹⁸ Analogous amendments are also enshrined in the laws on elections to the Office of the President of the Republic of Lithuania, elections to municipal councils, elections to the European Parliament, and referendums.

Establishment of an Independent Commission for the Monitoring of the Rights of Persons with Disabilities

In December 2018, the Seimas adopted amendments to the Law on Equal Opportunities submitted by a working group formed under the initiative of the OEOO, according to which a Commission for the Monitoring of the Rights of Persons with Disabilities (hereinafter – Commission) has been established under the OEOO. Since the summer of 2019, the Commission has been monitoring the implementation of the UN Convention on the Rights of Persons with Disabilities in Lithuania and issuing recommendations.¹⁹

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Religious Discrimination

Milda Ališauskienė

According to the scientific literature, religious discrimination is expressed with the application of restrictions on religious practices or institutions of religious minorities, which are not applied to the religion of the majority.¹ The phenomenon of religion includes both institutionalised and non-institutionalised religions, as well as non-believers and their communities. The laws of the Republic of Lithuania establish that all persons are equal, regardless of their religion, beliefs or views, and it is prohibited to restrict their rights or freedoms.² Religious communities in Lithuania are divided into traditional and other (non-traditional) religious communities and associations, and there is also a third category – state-recognised religious communities.³

According to the data from the previously conducted survey of members of religious minorities in Lithuania, most of the respondents felt discriminated against because of their religion. Discrimination was often expressed as stigmatisation and/or restriction of individual or community activities. For example, a non-traditional religious community is not allowed to carry out evangelistic activities in a public area. Respondents stated that the Roman Catholic Church, the media, and the legal acts, i.e. differentiation of religious communities into traditional and other, were the main causes of religious discrimination. Research data also revealed that the respondents tended to avoid reporting their experiences of discrimination and consulting with public authorities about their situation.⁴

According to a public opinion poll conducted in 2018, 37 percent of Lithuanians did not want to work with Muslims, over 20 percent – with Jehovah's Witnesses, and nearly 18 percent – with Hindus and Buddhists. For this reason, the Diversity Charter signed by several dozen companies on 3 October 2018, which obligated these companies to promote diversity among their employees, religious diversity included, has been a welcome change.⁵

According to the survey of the Lithuanian society conducted in 2019, Muslims and Jehovah's Witnesses were named among the most discriminated social groups.

According to the survey of the Lithuanian society conducted in 2019, Muslims and Jehovah's Witnesses were named among the most discriminated social groups.⁶ According to the data of the Eurobarometer survey "Discrimination in the European Union" conducted in the same year, Lithuanians do not feel safe because of their neighbours or co-workers who are Muslims, Buddhists, Jews, or atheists. On the other hand, the survey data shows that the majority of the country's population believes that discrimination on grounds of religion and belief is not widespread in Lithuania.⁷

According to the data of a qualitative survey of communities vulnerable to hate crimes conducted in 2019, Muslims living in Lithuania face incitement to hatred and insults, however, they usually do not report these incidents to law enforcement authorities.⁸ Disrespectful treatment of Muslims was also proven by an incident in the Migration Board in 2019, when an employee ordered a Turkish citizen to remove her hijab while taking a photo for a document.⁹ Employees of the Migration Board stated that the woman failed to provide a mandatory mediation letter issued by a religious institution regarding the necessity to wear a hijab (head covering), as specified in the order of the Minister of the Interior. The order stipulates that a person must be photographed for documents without a head covering,

with the exception of members of traditional and other religious communities and associations recognised by the Lithuanian state. In turn, the woman claimed that she was not provided with the necessary information about the document which had to be presented to the Migration Board.¹⁰

The Office of the Equal Opportunities Ombudsperson (OEOO) is the main public body to which citizens can turn if they have a complaint about discrimination. However, complaints regarding religion and beliefs comprise a very low percentage of all the complaints received by the OEOO. In 2018, it received 10 complaints of discrimination based on religion, beliefs, and views, which is only 4 per cent of all the investigated complaints. 6 were based on religion and beliefs, out of 10 complaints specified above.

In 2019, the OEOO received 14 complaints of discrimination on grounds of religion, beliefs, and views. 9 complaints were related to possible discrimination on grounds of views, 8 complaints – on grounds of religion, and 2 – on grounds of belief. The OEOO examined complaints where employers and prisons were suspected of discrimination on grounds of religion and belief, however, in all cases, it was decided that the complaints were unfounded and could not be considered religious discrimination.

In summary, it can be stated that the legal differentiation of religious communities into traditional and other religious communities creates favourable conditions for discrimination based on religion. It is therefore important to initiate a public debate on the abandonment of such division.

Although surveys of public opinions revealed a negative attitude of the majority of the Lithuanian population towards certain religious minorities, the Office of the Equal Opportunities Ombudsperson continues to receive a very low number of complaints related to religious discrimination, thus it is likely that members of religious minorities are reluctant to report discrimination directed toward them. That is why it is important to inform members of these groups about the possibility of reporting incidents of religious discrimination to the aforementioned state institution.

Representatives of the state institutions continue to privilege the dominant Roman Catholic Church and its representative institutions, thus violating the rights of other believers and non-believers. Therefore, it is important to educate civil servants about religious diversity and religion-state relationships.

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Nationality and Ethnicity Discrimination

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Although significant projects and initiatives in the field of integration of national minorities were implemented during the period under review, there is still a lack of strategic determination of the Seimas and state institutions in solving problems relevant to national minorities. While Lithuania ratified the Framework Convention for the Protection of National Minorities back in 2000, some of its provisions have still not been transposed into national law. For example, there is still no law in Lithuania which would allow writing names in identity documents in the original language, nor is there any resolution regarding bilingual signs in settlements where national minorities make up a significant portion of the local population. The last law on national minorities in Lithuania expired in 2010 and has not been renewed since. On the other hand, efforts are being made to enact a new law that would address the needs of national minorities. A draft law on national minorities¹ drawn up by members of the Social Democratic Party's fraction was registered during the period under review by drawing upon the previously registered legislative proposals², and a draft law submitted in 2017 by the Department of National Minorities was examined by expert working groups and members of the Council of National Communities.³

It can be assessed positively that the Government decided to establish a commission dedicated to address questions relevant to national minorities, involving not only representatives of national communities and the Department of National Minorities, but also the Government. This resolution is especially relevant taking into account the decision of the European Commission to allocate less support to the municipalities of Vilnius region. It is hoped that the establishment of the commission will help resolve any new matters that could arise as a result of changes in the financial support mechanisms for programmes aimed at reducing the social exclusion of national minorities of Vilnius region.⁴

Although social distance in relation to most ethnic groups has been overall decreasing, individuals of certain ethnicities and religious denominations continue to be viewed in a negative light. According to the results of a representative survey on public attitudes conducted in 2019⁵, more than a third (36 percent) of respondents would not want to have a Muslim⁶ living in their neighbourhood, and about 15 percent said the same about black people⁷. The Roma continue to be the ethnic group associated with the highest social distancing rates, with almost two-thirds (63 percent) of respondents stating that they would not want to have Roma living in their neighbourhood. Even though social distance towards Muslims and black people has been decreasing over the past years, attitudes towards Roma have hardly changed.⁸

The fact that part of the Lithuanian society does not regard people of another race, especially black individuals, as having full membership rights can be seen in both isolated incidents and larger-scale inquiries. A dark-skinned girl wearing Lithuanian national clothes was chosen to welcome the Pope during his visit in Lithuania in 2018, which drew attention of some spectators. Such welcoming of the Pope received criticism; a social media post containing a comment "I would rather see an ufo dressed in national Lithuanian clothes than a black girl"⁹ caused a wave of discussions in the public sphere and can be interpreted as manifestation of the prevailing ethnocentric and racialised perception of nationality in Lithuania. Such perceived incompatibility between Lithuanianess and dark skin colour affects not only migrants coming to Lithuania, but also mixed families living in the country, as was the case in this situation.

Cases documented by NGOs and journalists show that prejudice against ethnic minorities is not simply limited to personal views, but also materialise in the form of discrimination in everyday situations, thus severely hindering the integration and quality of life of affected persons. It is especially difficult for discriminated people to find accommodation, employment and to use public services.¹⁰ For example, headlines like “Nigers and Indians not allowed” on websites advertising rental housing are classic cases of overt racism.¹¹ On the other hand, discrimination on the grounds of ethnic origin is also gaining less noticeable forms. In 2019, the news portal “15min” conducted an experiment during which representatives of ethnic minorities attempted to find rental accommodation.¹² In addition to widespread discrimination, the study also revealed that an increasing number of people are becoming aware of the unacceptability of overt discrimination on the grounds of ethnic origin and therefore do not name ethnicity as the reason for discriminatory behaviour, while yet continue to discriminate ethnic minorities.

There are some positive developments brought by the implementation of National Strategy of Roma Integration to the Lithuanian Society and the associated Action Plan. According to the evaluation prepared by the European Commission, the greatest progress has been made in the field of education: establishment of a school network linking schools attended by Roma children, organisation of seminars on sexuality and prevention of early marriage, and appointment of social workers in schools and the municipality that help ensure the integration of students in educational institutions. Implementation of the project “Let us work together with the Roma – new employment opportunities and challenges”, during which information and advice regarding employment was provided to 300 members of the Roma community, was an important step in the integration of the Roma into the labour market. The population of the Roma living in the Kirtimai neighbourhood of Vilnius has decreased, and all the families who have been living there and raising five or more children were provided with housing elsewhere in the city. Some families were provided with social housing, while other relocated persons received rental compensation. On the other hand, NGOs note that such relocation is encumbered by widespread stereotypes about the Roma among property-owners. It is worrying that the scale of eviction of Roma from the Kirtimai settlement is disproportionate to the provision of new housing, which increases the risk of socio-economic exclusion of evicted persons. Discrimination against the Roma among members of the public, employers and representatives of public institutions such as police officers, as well as limited possibilities for Roma children to attend pre-school institutions, remain to be significant obstacles to Roma integration.¹³

For the integration to be successful, it is important to continue promoting intercultural dialogue and public awareness of Roma history and the underrecognised Roma genocide. That is why the proposal to include the International Roma Genocide Day into the list of remembrance days initiated by the Department of National Minorities in cooperation with non-governmental organisations and approved by the Seimas in 2019 is a welcome change.¹⁴ Educational initiatives of the Department of National Minorities and non-governmental organisations can also be seen as positive developments in this direction.¹⁵

Other positive steps towards better protection of ethnic minorities are the increasingly visible and active statements of prominent civil servants condemning hate crimes as well as their support for initiatives protecting human rights.¹⁶ In addition to the decorative street name signs displayed in some Vilnius street in the languages of national minorities, a social campaign “I am from Vilnius”¹⁷ initiated by Vilnius City Municipality has been implemented, encouraging residents of the city to get acquainted with persons born abroad but living in Vilnius. More and more government and municipal institutions are now providing information not only in Lithuanian but also in the languages of national minorities.

Hate Crimes

A number of publicly discussed incidents show that hate crimes based on ethnic origin are recurring in Lithuania: violent attacks on representatives of racial and national minorities have been recorded during the period under review¹⁸, and the recent increase in anti-Semitic acts is worrying.¹⁹ While there may be an increase in the number of situations in which police and government officials respond to hate crimes quickly and effectively, there are still cases when law enforcement officers are

reluctant to act upon hate crime incidents. In 2018, Fabian Sanches, an Ecuadorian, was attacked by two young men shouting “Lithuania for Lithuanians”, and the police did not launch a pre-trial investigation until their decision was publicly criticised by non-governmental organisations and the media.²⁰

A study published in 2019 that was commissioned by the Ministry of the Interior²¹ on the needs of groups vulnerable to hate crimes confirmed the prevailing position of NGOs: official statistics do not reflect the actual number of incidents of hate crimes on grounds of national and ethnic origin; victims often do not trust law enforcement authorities due to passive reactions and negative attitudes projected by the police officials. The most common form of hate crime is hate speech, which is especially rarely reported or investigated. There is lack of measures which would encourage vulnerable groups to report hate crimes, and language remains to be one of the most significant barriers in contacting responsible authorities among non-Lithuanian speakers. According to the study, Roma, Jewish, non-white and Muslim individuals often feel tense and not safe in public places, and avoid wearing clothes that would reveal their nationality or religious beliefs in order to be less visible and noticeable on the streets. Emigration becomes a common response to hate incidents.²²

There is lack of measures which would encourage vulnerable groups to report hate crimes, and language remains to be one of the most significant barriers in contacting responsible authorities among non-Lithuanian speakers.

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Hate Crimes

Goda Jurevičiūtė

Hate crimes are defined as criminal offences committed against a person, society or property, motivated by the perpetrator's preconceived negative bias, based on prejudice or stereotypes, towards a particular group or members of said group due to their race, ethnicity, nationality, language, descent, religion, gender, sexual orientation, age, social status, disability, convictions or views.¹

Hate crimes are generally divided into two categories²:

1. Hate speech, or *incitement to hatred*, which can be considered an equivalent of the former term in Lithuania – these acts are usually committed using language (i.e. verbal or written statements), and/or various inciting or discriminatory symbols (signs and other objects)³;
2. Other *hate crimes* referring to incidents related to physical attacks, such as physical violence and crimes against the property of certain groups of people or their members, manifesting as vandalism or other attacks. In such cases, a specific article of the Criminal Code (CC) is incriminated (e.g., causing physical pain), and the motive for hatred is considered to be an aggravating circumstance⁴. In the case of murder or causing of severe or non-severe bodily harm, hate crime is a qualifying circumstance⁵.

Even though current legal regulation of hate crimes in principle corresponds to the requirements of the European Union and international human rights organisations, Lithuanian non-governmental organisations that were working in this field during the period under review began to question whether the provisions of the CC establishing the concept of hate crimes as criminal acts aimed at expressing “hatred towards a group of persons or a person belonging thereto on grounds of age, gender, sexual orientation, disability, race, nationality, language, descent, social status, religion, convictions or views” (p. 12 of Art 60 of CC, p. 13 of Art. 129(2) of CC, p. 13 of Art. 135(2) of CC, p. 13 of Art. 138(2) of CC) comply with the definition of hate crimes provided by the Office for Democratic Institutions and Human Rights of the Organisation for Security and Cooperation in Europe (OSCE), which uses the term bias motivation instead of hate⁶. In other words, although the definition of hate crimes in the Prosecutor's Office's methodological recommendations is very similar to the one used by the OSCE, a question arises as to whether the CC provides an overly narrow concept of the mentioned crimes, which possibly poses challenges to their identification and investigation.

This is especially true for hate crimes against people with disabilities. According to the Country Report on Disability Hate Crime 2019 prepared by the Lithuanian Disability Forum and the Human Rights Monitoring Institute⁷, there are no official data on such crimes committed in the country.

The reasons for this latency can be various: the community of people with disabilities and organisations that represent them do not have sufficient knowledge about hate crimes; access to the justice system is not guaranteed for people with disabilities; the community mistrusts law enforcement authorities; law enforcement officers are not sufficiently qualified to recognise this type of crime, etc. However, another reason may be that such crimes that meet OSCE's definition of hate crimes against persons with disabilities are not registered and investigated as such in Lithuania, since the Criminal Code establishes a much narrower concept of such crimes. For example, according to the OSCE, if a person with a disability is chosen as an “easy target”, it is an expression of “bias” and such an act should therefore be considered a hate crime⁸.

The case where a person with visual and movement impairment was robbed at the Vilnius Bus Station at the end of 2019 could be considered as a possible example of a disability hate crime. The disabled victim was approached by persons who supposedly offered their help against the victim's will, then led him to the side and stole the victim's mobile phone⁹. This case of theft was not investigated as a hate crime. During the discussions of this case, several police officers stated that there were no

possibilities or grounds on which this type of offence could be classified as hate crime, since they did not see any “intent to express hatred”. However, OSCE believes that, before rejecting the bias motivation, it is worth asking whether such theft would have taken place if the victim had not been disabled. He was most likely chosen as a target because the offenders considered him more vulnerable, and did not believe that he would be able to defend himself or identify the offenders, and such conclusions were made precisely because of the victim’s disability¹⁰.

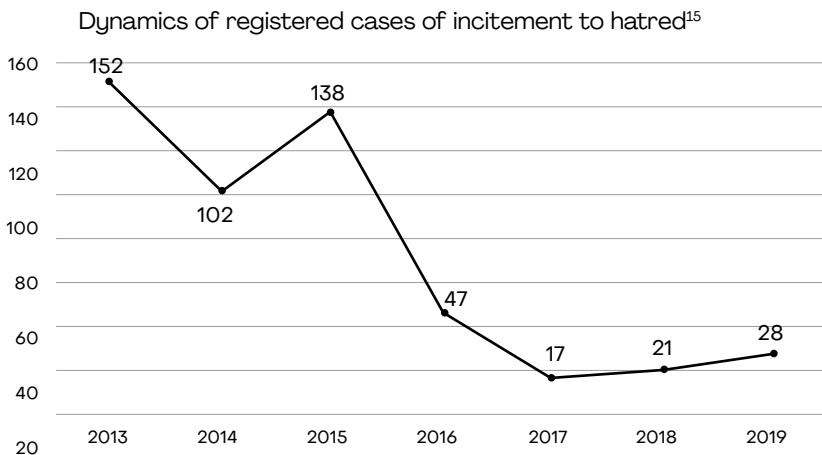
Although the concept of disability hate crime is quite new in Lithuania, and the recognition of this type of crime is partly hampered by regulatory gaps, there are cases where law enforcement officers also do not consider the motive of hatred when encountering crimes committed on grounds of xenophobia or racism.

In the summer of 2018, two young men attacked Ecuadorian Fabian Sanchez at a public transport stop while shouting “Lithuania for Lithuanians”. However, police officers acknowledged this offence as a crime motivated by xenophobia and launched an investigation only after NGOs and the media began publicly talking about it¹¹. The offenders were charged with violation of public order (CC 284) and incitement to hatred (Art. 170(2) of CC). Vilnius District Court convicted the young offenders of both crimes. This judgment was later upheld by the Court of Appeal¹².

It is rather surprising that for the use of the phrase “Lithuania for Lithuanians” the law enforcement officers decided to incriminate a separate crime – an incitement to hatred – instead of an aggravating circumstance ((p. 12 of Art. 60 of CC). The former crime should be characterised by publicity and an intent to incite someone to hatred, however no witnesses who might have seen the conflict or heard the xenophobic words used by the offenders were identified during the pre-trial investigation, thus a conclusion could be made that the “hate message” was only addressed to the victim. The appeal ruling of Vilnius Regional Court stated that “in the linguistic sense alone, the slogan “Lithuania for Lithuanians” does not mean discrimination, insult or contempt for people of a different race or nationality”¹³, but it became such only because it was used during an attack of the victim. The public aspect of the offence was examined in support of the allegation of a breach of public order, arguing that the mere fact that other persons could have appeared in the area at any time due to unrestricted access was sufficient.

The course of the investigation was similar to the other case where, in the summer of 2019, a gay couple was attacked and beaten in the stairwell of their apartment building in Vilnius¹⁴. Even though the offenders insulted the young men with homophobic slurs during the attack, pre-trial investigation officers initially classified this incident only as a disturbance of public order. Later the offence was classified as incitement to hatred as well.

Due to the aforementioned decisions of law enforcement officers, in official statistics, such crimes appear only as cases of incitement to hatred (CC 170). This fundamentally distorts the actual situation of hate crimes in Lithuania, since violent crimes are not included in hate crime statistics if they are qualified as violations of public order.



During the period under review, compared to 2015–2017, there was a slight increase in the number of criminal offences registered under Article 170 of the CC: 21 cases of incitement to hatred were registered in 2018, and 28 cases in 2019. Based on official statistics, incitement to hatred on grounds of nationality and sexual orientation are the most frequently encountered forms of incitement to hatred.

On the other hand, it is important to note that compared to 2015, when 138 criminal offences were registered under Article 170 of the CC, this number has dramatically decreased, with the largest change occurring in just one year (47 cases were recorded in 2016). According to the Government of Lithuania, such (statistical) decrease in the number of acts of incitement to hatred was influenced by the improved knowledge of law enforcement officers, organised training and more active contribution of the media through the dissemination of information about hate crime investigation and court judgments¹⁵. However, these reasons may have contributed only to a gradual decrease in the number of registered criminal offences, which raises the question of whether this was determined by a more passive registration and investigation of cases of incitement to hatred, as well as less frequent reporting of such incidents to law enforcement authorities¹⁶.

Since the 2018 report, which also covers the year 2017, the Information Technology and Communications Department (ITCD) has started to provide statistics on hate crimes not only in accordance with Article 170 of the CC, but also in accordance with clause 13 of part 2 of Article 129 (Murder), Article 135 (Severe Health Impairment) and Article 138 (Non-Severe Health Impairment) in which racial, nationalist, xenophobic, homophobic, religious and other motives of intolerance or discrimination are the qualifying characteristics of a criminal offence.¹⁷ However, it should be noted that, based on the data of the ITCD, no crimes were registered in 2017–2019 in accordance with clause 13 of Art. 129(2) and clause 13 of Art. 135(2), and only 1 criminal offence was registered in 2017 in accordance with clause 13 of Art. 138(2).

In addition, ITCD statistics based on the 2018 report, which also include data from 2017, distinguish “other offences, possibly committed to express hatred on grounds of race, nationality, origin, sexual orientation or religion”¹⁸. It is not clear from the wording whether this is where data on criminal offences committed on grounds of hatred are included when it is found to be an aggravating circumstance.

Reports of the Lithuanian National Courts Administration since 2017 also contain information not only on criminal offences registered under the Article 170 of the CC and transferred to court (14 such cases were received and 13 were tried in 2018, and 5 cases were received and 6 were tried in 2019¹⁹), but also on criminal offences where the motive of hatred is a qualifying characteristic of the criminal offence. According to this data, during the period of 2017–2019, only 5 cases reached the court in which criminal acts were motivated by aim to express hatred to a group of people or person belonging to it on grounds of age, gender, sexual orientation, disability, race, nationality, language, origin, social status, religion, belief or opinions.²⁰ In 2019, the court also examined one case under Article 312(2) which provides for liability for desecration of graves or other places of public respect by vandalism on racial, national or religious grounds.²¹

It is unlikely that only a few dozen hate crimes registered in Lithuania every year convey the real extent of the prevalence of these crimes. The latency of such crimes can be seen in the three thousand cases of hate speech recorded on a daily basis by the Office of the Inspector of Journalist Ethics²², and in the public opinion polls²³ that reveal the negative attitudes of the majority of the population towards Roma, people with psychosocial disability, homosexuals, Muslims, refugees and other groups.

A similar conclusion can also be drawn based on the study of 2019 commissioned by the Ministry of the Interior²⁴ on groups vulnerable to hate crimes. Results of the study show that members of the Lithuanian lesbian, gay, bisexual and transgender (LGBT) community, Roma, Jewish people, Muslims and communities of persons of other races often face incitement to hatred, hate-motivated harassment in public, and sometimes even physical violence. However, they rarely report such incidents to law enforcement authorities²⁵.

On 10 May 2019, the United Nations Committee on the Elimination of All Forms of Racial Discrimination (CERD) has issued its concluding observations to Lithuania²⁶ expressing concern about the low

level of reporting of hate speech and hate crimes in our country and about the fact that these crimes are not always registered and investigated as such. Accordingly, the CERD recommended taking measures to promote and facilitate the reporting of hate speech and hate crimes, including raising public awareness of access to legal aid and remedies, and to ensure that perpetrators are properly prosecuted and punished. The Committee also recommended strengthening the capacity of law enforcement officers, prosecutors and judges to investigate cases of hate crimes and hate speech, as well as improving the data collection system so that data collected on discrimination, hate speech and hate crimes could be disaggregated based on prohibited grounds.

These recommendations were very similar to the proposals of the United Nations Human Rights Committee provided on 29 August 2018 in the concluding observations on the fourth periodic report of Lithuania on implementation of the International Covenant on Civil and Political Rights,²⁷ which also emphasise the need to promote the reporting of hate crimes and hate speech, and the need to strengthen the capacity of law enforcement officers in this area.

Certain positive steps were also taken by state institutions during the period under review. In 2018, the Ministry of the Interior, in cooperation with the Prosecutor General's Office and the Office of the Inspector of Journalist Ethics, began implementing an EU-funded project "Strengthening response to hate crime and hate speech in Lithuania". It was planned that during this project over 300 law enforcement officers (police officers, prosecutors) and judges would receive appropriate training by spring of 2020²⁸. One of the objectives of this project was the abovementioned study of communities vulnerable to hate crime.

Renatas Požėla has been appointed as the Police Commissioner General on 12 November 2019. Just a few weeks later, he met with Faina Kukliansky, President of the Lithuanian Jewish Community, promising that the police will pay particular attention to the prevention and investigation of hate crimes²⁹.

On 13 December 2019, at the request of non-governmental organisations, the Ministry of the Interior convened a meeting of representatives of state institutions and non-governmental organisations regarding the establishment of a working group to promote an effective response to hate crimes and hate speech³⁰. A decision was made to create such a group, and the functions and possible activities for the period 2020–2022 of the group have been discussed during the meeting.

The judgment of the European Court of Human Rights (ECHR) of January 2020 in the case of *Beizaras and Levickas v. Lithuania*³¹ regarding failure of law enforcement authorities to investigate cases of homophobic hate speech on the Internet is likely to bring positive changes in the practice of investigating hate speech and prosecuting the perpetrators. The ECHR concluded that the prosecutor's office and the national courts discriminated against the applicants on the basis of their sexual orientation and violated their right to respect for private and family life, as well as the right to an effective remedy.

RESOURCES

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⁵ P. 13 of Art. 129(2) of CC, p. 13 of Art. 135(2) of CC, p. 13 of Art. 138(2) of CC.

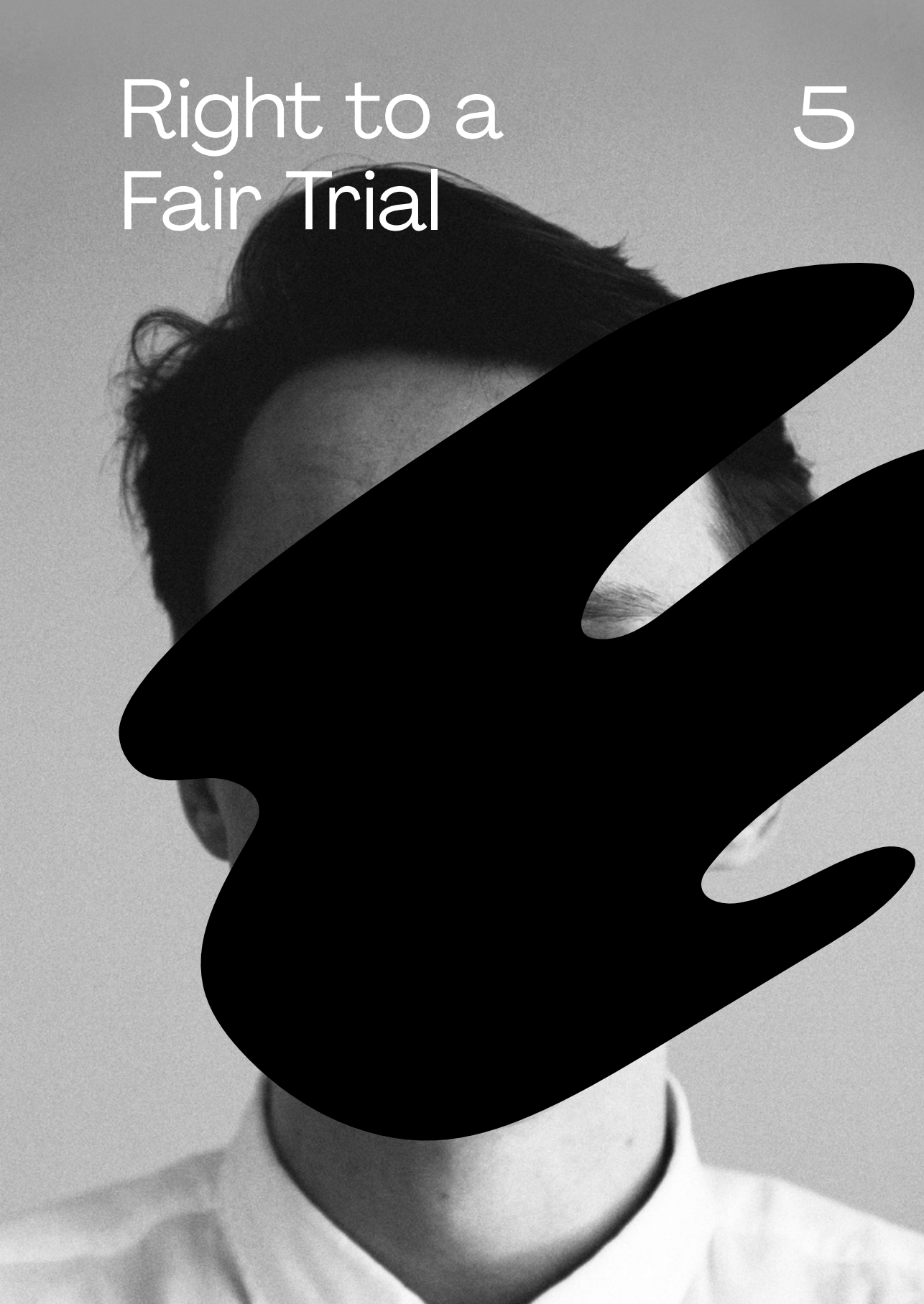
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Right to a Fair Trial

5



Rights of Suspects

Erika Leonaitė

In 2018–2019, Lithuania has become bound by the standards set out in three European Union Directives: Directive on the presumption of innocence,¹ Directive on legal aid for suspects,² and Directive on the procedural safeguards for children who are suspects.³ However, in practice, a lot of questions are raised regarding whether certain standards provided in these EU legal acts are properly implemented in Lithuania. In addition, practical difficulties in ensuring other fundamental rights of suspects enshrined in EU and Lithuanian legislation, such as the right to translation and the right to information, remain a problem.

Presumption of Innocence

Under the Directive on the presumption of innocence, states must ensure that suspects and accused persons are presumed innocent until proven guilty according to law.⁴ In Lithuania, presumption of innocence is guaranteed by the provisions of both the Constitution and the Code of Criminal Procedure.⁵ Nevertheless, while the focus is on ensuring the presumption of innocence in criminal investigations and proceedings, full implementation of this principle also requires to adopt measures, aimed at ensuring that the suspect is not presented to the general public as guilty.

The Directive on the presumption of innocence obliges states to take measures to guarantee that the suspects are not presented as guilty in court or to the general public by means of physical restraint, such as handcuffs or cages, unless it is necessary in a particular case in order to ensure security.⁶ The importance of this aspect of presumption of innocence became particularly evident in 2019 in the context of the alleged corruption case involving judges and lawyers. The situation in which photos of handcuffed judges and lawyers suspected of corruption were widely publicised in the media can be seen as contributing to the formation of an image of these individuals as undoubtedly guilty.⁷ This case showed that the use of handcuffing in Lithuania is not always reasonably applied and, accordingly, the presumption of innocence is not properly ensured. The National Human Rights Institution – the Seimas Ombudsmen's Office – also concluded that precisely because of the excessive use of physical restraint measures, Lithuania does not properly implement the standards set out in the Directive on the presumption of innocence.⁸

Right to Legal Aid

The Directive on legal aid for suspects obliges the EU member states to ensure access to state-guaranteed legal assistance for suspects and accused persons who do not have sufficient financial resources. Free legal assistance must also be provided when it is necessary to ensure a fair trial.

Although free legal assistance in Lithuania is subject to a very strict income “threshold” (in 2019, the income of a person without dependants could not exceed EUR 4306,80 per year or approximately EUR 359 per month⁹), the situation is mitigated by the extensive list of grounds for the mandatory participation of a lawyer, provided in the Code of Criminal Procedure (CCP). The CCP provides for specific cases where the participation of a lawyer is mandatory in the proceedings, in which case secondary legal aid is provided to the suspect regardless of their owned property and income.¹⁰ It is presumed that persons are more vulnerable in these cases (e.g., due to their young age, disability, lack of knowledge of the Lithuanian language) and the principle of justice requires that they are represented by a lawyer. When transposing the Directive on Legal Aid for Suspects, an amendment to the CCP was adopted, stipulating that participation of a lawyer is also necessary in cases where the suspect is temporarily detained (i.e. for up to 48 hours).¹¹ This provision came into effect as of 1 January 2019, but was abolished from 15 July 2020. In addition, officers con-

ducting the investigation are also given the discretion to recognise the participation of a lawyer as mandatory in other cases where this is deemed necessary to protect the interests of justice.¹²

Thus, in Lithuania, the right of suspects and accused persons to state-funded legal assistance is guaranteed rather widely. However, in practice, there are problems regarding the quality and funding of state-guaranteed legal assistance. A study was conducted by the Human Rights Monitoring Institute,¹³ during which interrogations of detained suspects were observed. It was found that the role of state guaranteed legal aid lawyers was rather formal, i.e. some of them were simply present in the room during interrogation and did not show any initiative to advise their clients.¹⁴ Cases when the lawyer participates in an interrogation only formally or participates only in part of the interrogation violate the right of the suspect to the effective defence, as the suspect both has no real legal aid ensured and his or her situation might be even further complicated. For example, the courts investigating the claims of the accused on violations incurred during the pre-trial investigation (improper interpretation, illegal actions of the investigator) usually take into account whether the lawyer was present, and whether the lawyer raised the issue of the breach of procedural rights. Thus, formal participation of a lawyer in the interrogation may make it more difficult for the suspects and accused to prove violations of their procedural rights. Moreover, investigators, knowing about the formal attitude of the legal aid lawyers to representation of the interests of the suspect, may prefer inviting to the interrogation a legal aid lawyer instead of a private lawyer requested by the suspect.¹⁵ Therefore, situations where legal aid is provided only formally do not ensure actual representation of the suspect's interests and compromise the right to defence or confidence in the fairness of criminal proceedings.

Lawyers, investigators, prosecutors and judges interviewed by the Human Rights Monitoring Institute in 2016–2017 specified excessive lawyer workloads, low salaries and demotivating remuneration system, as well as an insufficiently effective performance evaluation mechanism as the main reasons for the low quality of state-guaranteed lawyers' services.¹⁶

It seems that in 2018–2019 no effective solutions were found to eliminate these problems. In October 2019, in response to the debt of more than half a million Euros for provision of state-guaranteed legal aid, 268 lawyers signed a petition expressing their determination not to accept new assignments to provide state-guaranteed legal aid.¹⁷ Even though provision of legal aid was not suspended after a compromise was reached between the Lithuanian Bar Association and the Ministry of Justice,¹⁸ this situation confirmed the existence of systemic problems in organising the provision of state guaranteed legal aid. This casts doubt whether Lithuania is currently properly implementing the Directive on legal aid which requires taking necessary measures, including financial ones, to ensure that legal aid services are of adequate quality.¹⁹

Rights of Child Suspects

The area of rights of children (persons under 18) who are suspects or accused was mainly influenced by two factors in 2018–2019 – the ongoing reform of children's rights and the need to implement the Directive on the rights of child suspects.

In the context of the reform on children's rights, a provision of the Code of Criminal Procedure came into force on 1 July 2019 establishing that a psychologist may be summoned to the interrogation of a child suspect in order to question him/her according to his/her social and psychological maturity. A representative from a children's rights protection institution, whose task is to monitor whether the rights of the child suspect are not violated during the interrogation, may also be summoned.²⁰

In implementing the Directive on the rights of child suspects, the Seimas adopted amendments to the Code of Criminal Procedure²¹ and the Law on the Execution of Detention²², which entered into force on 1 September 2019. They established the following additional rights for child suspects:

- Right to be accompanied by a legal representative in court hearings and other procedural actions;
- Right to privacy;
- Right to individual assessment;

- Right to make an audio and video recording of the interrogation;
- Right to an additional or repeated medical examination of a detained suspect.

One of the main innovations is introduction of individual assessment of child suspects. During the assessment, data should be collected on the identity of a child suspect, his/her environment and needs in terms of protection, education, and social integration. Such an assessment must be carried out by a child protection authority or an institution of detention where the child is being held, acting under the order of an investigator or a prosecutor. The collected data must be taken into account when adopting procedural decisions concerning the child suspect, including the imposition of remand measures, termination of the pre-trial investigation or referral of the case to court, as well as the imposition of punitive, penal or educational measures.²³ It is, however, too early to assess how the new procedure will work in practice. The important thing is to ensure that, instead of becoming another formality, it is used as an effective measure for identifying the individual circumstances of child suspects and taking them into account in criminal proceedings.

In order to implement the requirement to ensure that child suspects are informed about their procedural rights, a "Letter of Rights" – *Annex to the protocol on informing juvenile suspects of their rights* was approved in 2019.²⁴ It is a long document (more than 3 pages long) written in formal legal language. It is therefore questionable whether this document complies with the provision of the Directive on the rights of child suspects stating that such information must be provided in 'simple and accessible language'.²⁵

In addition to the said aspects of the procedural rights related to the new EU standards, practical problems relating to implementation of two other procedural rights of suspects – the right to interpretation and translation, and the right to information – should also be mentioned. These problems, however, are of an ongoing nature and are not specific to the period of 2018–2019.

Right to Interpretation and Translation

The main requirements arising from the Directive on the right to interpretation and translation are legally consolidated in Lithuania²⁶. Thus, the remaining practical issues of ensuring this right are related to lack of clear procedures and resources instead of legal regulation. For example, studies show that lack of qualified translators and interpreters who could provide high quality translation services in criminal proceedings, as well as lack of a register of qualified interpreters/translators make it difficult to ensure the quality of interpretation/translation or provide interpretation/translation to rare languages.²⁷

Right to Information

The Code of Criminal Procedure guarantees the right of suspects to receive information about their procedural rights.²⁸ However, the letter of rights served on suspects (*Annex to the protocol on informing suspects of their rights*²⁹) is a three-page document written in long, complex sentences, reproducing the provisions of the CCP, with general references to 'procedures established by the CCP or other laws'. Such form of providing information is not easily accessible to those without legal education, therefore it does not comply with the requirement of the Directive for the letter of rights to be 'drafted in simple and accessible language'. In addition, the letter of rights is usually served to the suspect together with several other procedural documents before the interrogation. As a result, informing suspects of their rights often becomes a formality with little practical significance. A more comprehensible version of the letter of rights is only served on persons in respect of whom a European arrest warrant has been issued.³⁰

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Rights of Victims

Erika Leonaitė

In 2018, 44 369 natural persons were registered as victims of criminal offences, among which 3 338 were children. In 2019, the total number of registered victims dropped to 36 734, and the number of child victims – to 2522.¹

According to the official data, in 2018–2019, most of the victims suffered material losses and/or physical abuse, while cases of psychological and sexual abuse were registered less often.

Material damage		Physical violence		Sexual violence		Psychological violence		Neglect	
2018	2019	2018	2019	2018	2019	2018	2019	2018	2019
9162	9970	11836	10690	147	117	1062	632	49	52

Table 1. Damage suffered by victims in 2018–2019²

Although the number of registered victims is declining, this does not in itself mean that this change accurately reflects the decline in crime, as some individuals may simply not report a crime for various reasons, such as reluctance to participate in legal proceedings, belief that no compensation will be provided for the suffered damages, fear of revenge, etc.

Since every crime causes stress and a sense of injustice to the injured person, provision of accessible and comprehensive information, as well as psychological and other support remains an important task. This is also required by the EU Victims' Rights Directive.³ Unfortunately, during the period under review, Lithuania remained among the countries where a system of comprehensive support services for all victims of crime, as required by the EU, has not yet been established. Comprehensive support is provided in Lithuania only to victims of domestic violence, human trafficking, and sexual exploitation.

On the other hand, initiatives were continued in 2018–2019 to better safeguard the interests of victims in criminal proceedings. For example, a program for volunteers providing information and emotional support to victims and witnesses has been implemented in six Lithuanian courts⁴. Court volunteers not only help people navigate the court premises, but also explain any relevant procedural matters, or, if necessary, watch over the children of persons participating in a court hearing.

Changes in the legal framework, aimed at protection of the rights of the most vulnerable groups, also took place during the period under review. In this respect, two areas can be distinguished:

- Protection of child victims from the negative effects of criminal proceedings (protection from secondary victimisation).
- Development of legal aid opportunities for vulnerable groups of victims.

Protection of Child Victims from the Negative Effects of Criminal Proceedings

For many victims, criminal proceedings alone are a stressful experience. During the interviews, victims are forced to recall the experienced violence, and may also have to experience insensitive and formal communication with officers. These and other circumstances contribute to the so-called secondary victimisation, i.e. traumatic experience that is not directly the result of the crime suffered but is caused by additional traumatic circumstances. In order to ensure a more efficient protection of child victims from negative experiences during criminal proceedings, amendments to the Crim-

inal Procedure were adopted in 2017⁵, which became effective as of 1 July 2018. The following rules came into force as of the said date:

- A psychologist must be present at all interviews of victims and witnesses under 14 years of age. Mandatory participation of a psychologist is also provided in the interviews of children over the age of 14 who became victims of crimes that cause extremely traumatic experiences, such as crimes against life and health, or sexual offences. An option is also provided to summon a psychologist to any other interview of a child under 18 years of age. The task of a psychologist is to prepare the child for the interview, as well as ask him/her questions depending on the maturity of a particular child. In such cases, the judge or officer should observe the interview from another room and ask questions through a psychologist who would receive them via a headset and communicate them to the child, thus serving as an “interpreter” between the interviewer and the interviewed child. Otherwise, a psychologist may be present in an interview and interfere as necessary.
- Interviews of child victims and witnesses must take place in premises specially adapted for questioning of children, i.e. in an environment that is less formal. The suspect and other participants in the proceedings, except for the psychologist and representative of the interviewed child, are not allowed to be present in the room where the interview is being conducted.
- Child victims and witnesses should be questioned no more than once.
- A representative of a child victim or witness has the right to participate in the interview only after it is made sure that he or she will not exert undue influence on the child.

Interviews of children in Lithuanian courts were conducted by 12 court psychologists in 2018, and 15 psychologists – in 2019.⁶ Since court psychologists are summoned to question child victims, witnesses and suspects, as well as to communicate with children in civil cases, they have a considerable workload. According to the data of the National Courts Administration, 1339 interviews were conducted in 2018 and 1554 in 2019 with the participation of a court psychologist in criminal cases alone.⁷ Specialists included in the official *List of psychologists, who can help question minors* may also be summoned to the interviews. This option is particularly relevant in cases where the child is questioned in a police station rather than a court, as police institutions do not have their own psychologists. However, certain psychologists included in the list provide assistance in interviewing children only after working hours and/or on weekends⁸, which can lead to practical difficulties in organising such interviews.

Development of Legal Aid Opportunities for Vulnerable Groups of Victims

On 1 January 2019, amendments to the Law on State–Guaranteed Legal Aid entered into force,⁹ establishing the possibility to receive free legal aid for the most vulnerable victims, i.e. victims of terrorism, human trafficking, domestic violence, sexual abuse, crimes committed by an organised group or criminal association, and hate crimes.

For people who became victims of these crimes, access to the services of a state–paid lawyer does not depend on the amount of the victim’s income or the amount of property owned by the victim. This possibility is an important step in order to safeguard the rights of victims, as Lithuania has a very strict income “threshold” for free legal assistance (in 2019, the income of a person without any dependants could not exceed EUR 4306.80 per year or approximately EUR 359 per month¹⁰). Assistance of a state–paid lawyer is also provided in criminal damages cases¹¹.

According to the data of the State Guaranteed Legal Aid Service, in 2019, under the newly enacted provision, legal aid was provided to 60 individuals.¹²

Since every crime causes stress and a sense of injustice to the injured person, provision of accessible and comprehensive information, as well as psychological and other support remains an important task. ●

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Right to Liberty 6

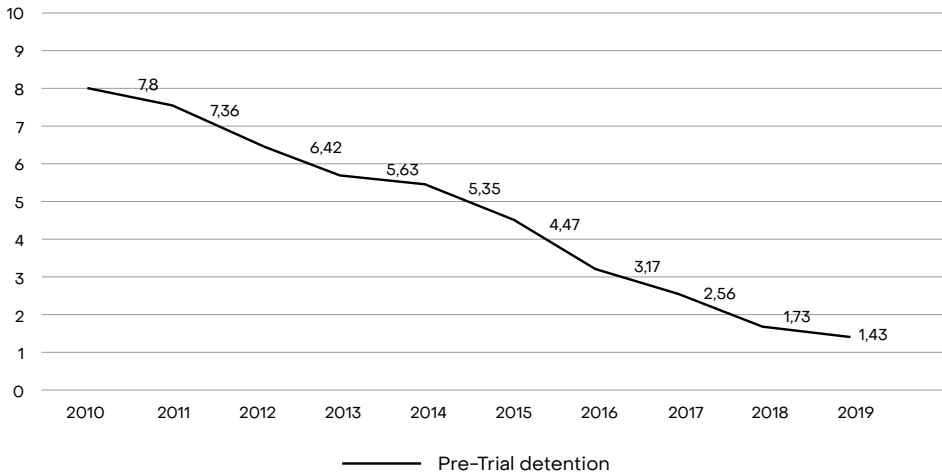
Pre-Trial Detention

Erika Leonaitė

Pre-trial detention is the most severe measure that can be imposed on a person suspected of having committed a crime, when it is necessary to ensure that he or she does not escape, obstruct the investigation or commit other crimes. In essence, pre-trial detention is equivalent to deprivation of liberty pending the verdict of the court, and conditions in detention (interrogation) facilities are often worse than in prisons where convicts are serving their sentences. That is why this measure is considered to be a very serious restriction of the right to liberty and can only be applied if there is evidence to justify the need for this measure and where less severe measures such as house arrest, intensive monitoring (use of electronic tagging) or bail would be insufficient.

Official statistics suggest that provisions of the Code of Criminal Procedure, according to which detention may be imposed only as a last resort, by each time clearly justifying not only the grounds and reasons of such imposition, but also the circumstances based on which the use of less severe measures was not possible,¹ are no longer simply just “dry letters of the law”. In 2018–2019, the percentage of detained suspects continued to decrease. Compared to 2016, the percentage of pre-trial detentions decreased more than twice in 2019. Meanwhile the percentage of detention has dropped nearly four times over the past five years (2014–2019).² Given that, as in previous years, the courts grant 96 percent of prosecutors’ requests for detention or extension of detention,³ it can be assumed that the responsible attitude of prosecutors plays a significant role in this area, and requests for detention are made only after assessing the need for this measure. At the same time, this change shows an increased focus on safeguarding personal freedom in the pre-trial investigation process.

Percentage of suspects subjected to pre-trial detention



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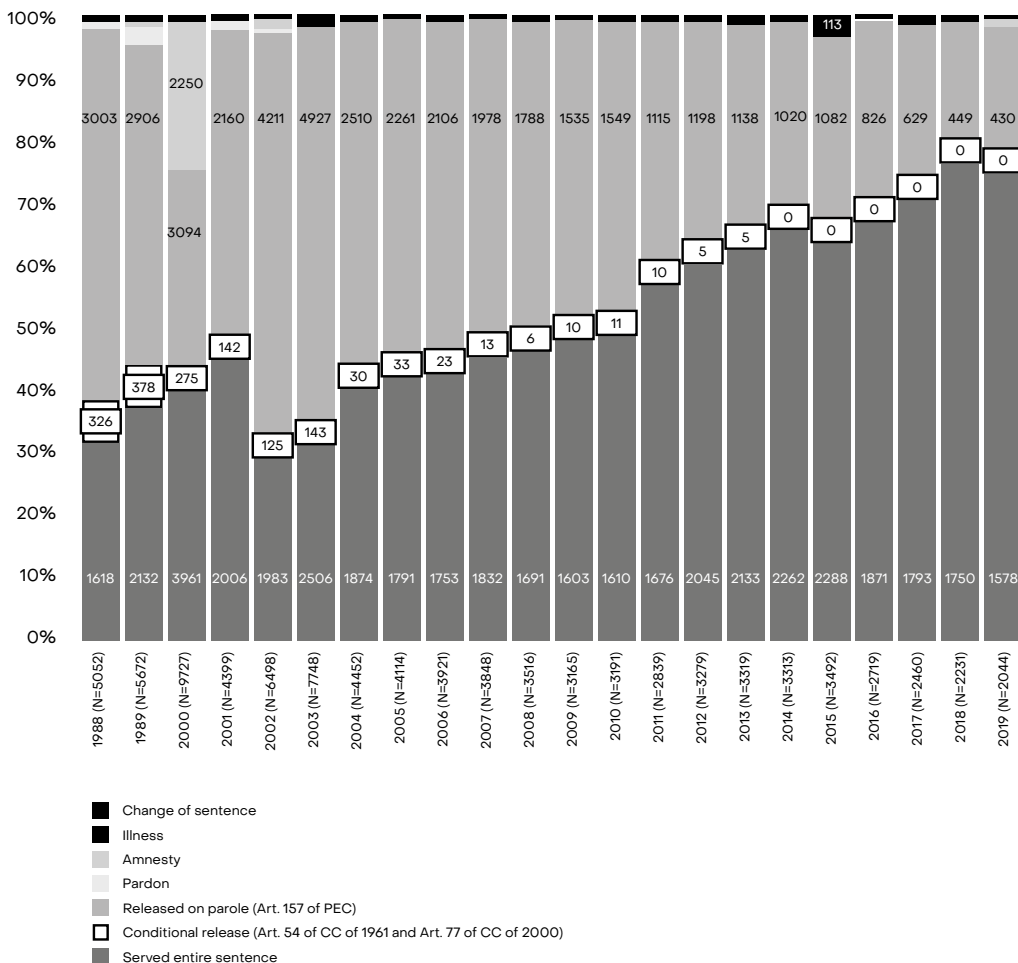
Probation

Gintautas Sakalauskas

The number of cases of postponement of execution of a final sentence of imprisonment has been decreasing in 2018–2019. In 2018, it accounted for only 6.9 percent of all sentences imposed, compared to 8.8 percent in 2017 and 8.9 percent in 2016¹.

In 2018–2019, the number of persons released on parole also continued to decrease: in 2018, only 20.1 percent of all convicts have been released on parole, as well as 21 percent in 2019, whereas as much as 50–65 percent of all imprisoned persons were released on parole during the period of 1998–2010².

Grounds for the release of sentenced persons from prisons³



Grounds for the release of sentenced persons from prisons¹

The new wording of Article 157 of the Penal Enforcement Code of the Republic of Lithuania, adopted on 27 June 2019 and coming into force on 1 July 2020, will once again substantially change the conditions of parole⁴ (the said conditions were amended in 2003, 2011 and 2015). Under this amendment to the Code, convicts that have been imposed an imprisonment sentence of up to 4 years for intentional offences may be released on parole after serving one third of their sentence in prison. The (final) decision on this matter will be made by the Conditional Release Commission and will not require any approval from the court. On the one hand, such an extended competence of the commission raises doubts on compliance with the provision of Article 109 of the Constitution of the Republic of Lithuania, according to which justice is administered only by courts, but on the other hand, and more importantly, the new system continues to apply the differentiation of conditions for parole based on the duration of the sentence, which is not in line with the purpose of the execution of sentences – re-socialisation. The length of a sentence depends primarily on the severity of the offence, which the legislator already takes into account when establishing appropriate lengths of imprisonment sentences in the sanction of the article of the Criminal Code. However, the needs and opportunities for re-socialisation depend on the individual person and not on the length of the sentence imposed.

Amendments to the law adopted in recent years have significantly expanded the possibilities for the electronic monitoring of convicts.⁵ Recommendation of the Committee of Ministers of the Council of Europe on electronic monitoring⁶ emphasises that electronic monitoring of convicts should not be used as a single remedy, as it would not be effective by itself and should be used in conjunction with professional intervention, assistance and social integration measures which are currently poorly developed in the Lithuanian probation system.

Amendments to the law adopted in recent years have significantly expanded the possibilities for the electronic monitoring of convicts.

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Involuntary Psychiatric Hospitalisation

Karilė Levickaitė

At the very end of 2017, the Cabinet of Ministers approved the Government Resolution presented by the Ministry of Health (hereinafter, MoH) on the new draft Law on Mental Health Care (hereinafter, the Law). It was stated in the press release by the MoH that “the aim is to harmonise the provisions of two legal acts – the Law on Mental Health Care and the Civil Code¹ which stipulates that people with mental health conditions may only be involuntarily hospitalised with their own consent or court permission. This discrepancy has led to a number of grave incidents.”²

Such content of the press release by the MoH, which is incompatible with the human rights perspective, did not comply with the provisions of the new draft Law prepared by the MoH³ itself and its subordinate institutions. The Law provides for the need to apply to court for extension of involuntary hospitalisation no later than within 48 hours following commencement of involuntary hospitalisation. Such a confusion suggests expert and value-based negligence of both the legislative and the executive powers in the field of mental health and human rights. This is confirmed by the fact that no discussions were initiated with human rights institutions and non-governmental organisations during the preparation of the new version of the Law (one of the most important elements of which is the use of involuntary hospitalisation, treatment and restraint measures in health care institutions).

Thus, the year 2018 began with a public discussion, following Karilė Levickaitė, the director of the non-governmental organisation Mental Health Perspectives, pointing out the excessive conditions for involuntary hospitalisation in the draft Law: “a person with mental and behavioural conditions who refuses to be hospitalised may be hospitalised involuntarily in accordance with the procedures established by institutions authorised by the Government of the Republic of Lithuania, but for not longer than 3 working days and only if the patient’s behaviour shows that there is a real risk that his or her actions or omissions may cause significant damage to his or her health, life and/or property or the health, life and/or property of others.” Although Ona Davidonienė, the director of the State Mental Health Centre, assured that nothing has been hidden in the Law and the aim was to simply harmonise it with the current Civil Code, Aušrinė Armonaitė, a member of the Seimas, stated that when she presented her proposal to decriminalise possession of small quantities of drugs not intended for distribution, several of her colleagues hinted that this proposal would gain more support if it is presented with the idea of imposing involuntary treatment.⁴

Members of the Coalition of Non-Governmental Organisations and Experts “Mental Health 2030”⁵ (hereinafter, Coalition) gathered to discuss the draft Law on Mental Health Care on 1 February 2018, focusing on the topic of involuntary hospitalisation. It was the first time that the Law has been discussed with the involvement of various relevant groups of society and representatives of various professions. Coalition’s proposal on the amendment of the Law was submitted to the MoH on 26 February 2018. It criticised the draft law and called for cooperation, emphasising that significant changes in the mental health care system and services could only be achieved through the involvement of and close cooperation between public authorities and representatives of the civil society, including organisations representing people with psycho-social disabilities⁶. However, the Coalition did not receive any response to this by the MoH.

The MoH also failed to respond to the appeal of the NGO Mental Health Perspectives⁷ and Lithuanian Disability Forum to the Ministers of Health and Foreign Affairs, calling not to support the adoption of the Additional Protocol to the Convention on Human Rights and Biomedicine⁸ (Oviedo Convention) at the Council of Europe. This protocol provides consolidation for involuntary hospitalisation and treatment of persons with psycho-social disabilities. It was also impossible not to hear the call of the Unit-

ed Nations (hereinafter, UN) Committee⁹ on the Rights of Persons with Disabilities and international organisations¹⁰ that called not to support the adoption of the protocol at the UN, in order to safeguard the rights of persons with mental health conditions and psycho-social disabilities, to avoid forced psychiatric practices, to develop and to ensure alternative services and person-centered care.

The extremely closed attitude of the MoH in the formulation and implementation of the mental health policy in Lithuania over the past years calls into question one of the basic principles of democracy in state governance, i.e. the necessity to involve society in decision-making processes. In such a vacuum of discussion as it has been in Lithuania, highly sensitive human rights issues in the field of mental health can be either completely intangible or left to the “behind-the-scenes” decisions of ministry officials.

Since the amendments to the Republic of Lithuania Law on the Seimas Ombudsmen¹¹ entered into force in 2018, it granted the Seimas Ombudsmen's Office the status of the National Human Rights Institution. The institution has been enabled to strive for the harmonisation of national legislation with Lithuania's international human rights obligations. The possibilities of cooperation in addressing human rights matters have been discussed at a meeting initiated by the Seimas Ombudsmen's Office of the Republic of Lithuania¹² with representatives of the Coalition of Human Rights Organisations¹³ on 19 January 2018. Attention was drawn to the most pressing human rights issues in their areas of activity, including amendments to the Law on Mental Health Care, which possibly violate human rights, and the necessity to improve the mental health care system.

On 3 April 2018, the Seimas Ombudsmen's Office of the Republic of Lithuania initiated a meeting¹⁴ with representatives of the MoH, Ministry of Justice and non-governmental organisations to discuss how recommendations issued by the UN Committee on the Rights of Persons with Disabilities were being implemented in Lithuania.¹⁵ The Seimas Ombudsmen drew the attention of representatives of the MoH and Ministry of Justice to the need to change the provisions of the Code of Civil Procedure with amendments to the said law. Representatives of non-governmental organisations participating in the meeting noted that the Law needs to be improved by narrowing and detailing the grounds for involuntary hospitalisation, as well as distinguishing the institutes of involuntary hospitalisation and involuntary treatment.

In 2018, the Seimas Ombudsmen's Office of the Republic of Lithuania performed inspections in two psychiatric institutions: Marij Division of Psychiatry Clinic of Kaunas National Clinical Hospital and National Vilnius Psychiatric Hospital.¹⁶ Upon assessing matters related to a person's consent to receive health care services and the right to refuse treatment, a conclusion was made that “patients are not properly informed about their right to refuse treatment and leave the treatment institution, as well as the consequences of such refusal – not only during their hospitalisation but also when the person's condition becomes stable after a certain period of time”.

Despite the active participation and proposals of non-governmental organisations and the Seimas Ombudsmen's Office of the Republic of Lithuania in preparing a new version of the Law on Mental Health Care, provisions of the Civil Code remained unchanged, and the amended new version of the Law on Mental Health Care was adopted on 11 January 2019.¹⁷

Alignment of provisions of the Law with the provisions of the Civil Code would enable involuntary hospitalisation and/or involuntary treatment without a court order for up to 3 working days, with the requirement to apply to court within 48 hours from commencement of involuntary hospitalisation and treatment. It is provided that involuntary hospitalisation would be imposed if there is a real threat that the person's actions or omissions may cause significant damage to his or her health, life and/or property or the health, life and/or property of others.

Such extension of preconditions for involuntary hospitalisation and treatment is not in line with the provisions of the UN Convention on the Rights of Persons with Disabilities¹⁸ and the recently communicated positions of the Council of Europe¹⁹ and the UN Human Rights Council²⁰ promoting a fundamental change in attitudes and the development of new health and social services without

using coercion and by ensuring alternative forms of assistance and support in the event of a mental health crisis, the implementation of which is also encouraged by international organisations.²¹²²

Serious discussions should also be held on other particular provisions of the new version of the Law regarding their compatibility with the human rights standards. The provisions establish the rights of persons with mental health and behavioural conditions and grounds for their restriction, regulate video surveillance in mental health care facilities, restrict the use of devices with video and audio recording functions, and regulate forms of physical restraint: by hand (body strength), by special means or by isolating the person with a mental health or behavioural condition in a separate room.

The new wording of the Law also includes aspects establishing human rights: signature of the guardian of a person declared as lacking legal capacity in the relevant field alone is not a sufficient ground for hospitalisation and treatment of that person, in which case hospitalisation must be extended with the permission of the court; at the request of the hospitalised person, he or she must be allowed to contact his or her representative, family members or person providing assistance in making decisions; the scope and procedure for informing hospitalised persons have been revised; the hospitalised person may give his or her statements to the court within the hospital or via remote questioning when matters relating to the person's involuntary hospitalisation and treatment are being addressed; a person who is involuntarily hospitalised and treated is entitled to an additional independent evaluation of his or her mental health condition, provided that the person agrees to pay for it.

During the implementation of the Law in 2019, the MoH undertook to draft a procedure for involuntary treatment²³, which describes in detail the procedures for involuntary hospitalisation and treatment in order to harmonise these practices in health care institutions. This document, approved by an order of the Minister, provides for the monitoring of cases of involuntary hospitalisation, obliging mental health care institutions to submit annual reports on the monitoring of cases of involuntary hospitalisation in accordance with the established form. This is an important aspect in order to assess the extent of involuntary hospitalisation in Lithuania, since, up to now, such data was never collected nor analysed in the country.

In 2018, two judgments of the European Court of Human Rights (hereinafter, ECHR) relevant to Lithuania were adopted and illuminated²⁴²⁵ publicly in cases related to involuntary hospitalisation and treatment.

On 27 February 2018, the ECHR issued its judgment in the case of *Mockutė v. Lithuania*,²⁶ stating that Articles 8 and 9 of the European Convention on Human Rights were violated. The applicant was involuntarily hospitalised and treated for 52 days at the National Vilnius Psychiatric Hospital in May 2003. A judgment regarding unlawful involuntary hospitalisation was previously issued by Vilnius Regional Court back in 2008: except for the first two days of involuntary hospitalisation, the applicant was held in the hospital unlawfully since no court permission had been obtained.

On 26 June 2018, the ECHR issued its judgment in the case of *D.R. v. Lithuania*,²⁷ finding that the actions of national authorities in taking the applicant away for a forensic psychiatric examination and imposing on her a compulsory medical measure – inpatient treatment in a specialised mental health institution – violated Article 5(1) of the Convention for the Protection of Human Rights and Fundamental Freedoms (the right to liberty and security).

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7



Right to a
Community Life

Reform of Institutional Childcare Services

Mėta Adutavičiūtė

Article 20(1) of the United Nations Convention on the Rights of the Child provides that a child who has temporarily or permanently lost his or her family environment or who is unable to be in that environment for safety reasons is entitled to special protection and support provided by the State.¹ According to international standards of the rights of the child, in order for a child who has lost his or her family to be able to fully develop, he or she should be provided with care in a family environment or close to a family environment.² It has been widely acknowledged by child rights experts that the needs of a child are met much better in a family environment than in a large child care institution³, thus institutional care should only be provided in exceptional cases where there is no objective possibility to place the child in a family environment.

Institutional childcare reform continued to be implemented in Lithuania during the reviewed period, in accordance with the Action Plan on the Transition from Institutional Care to Family and Community Services to Disabled Persons and Children Without Parental Care for 2014–2020 approved by Order of the Minister of Social Security and Labour No A1-83 of 14 February 2014.⁴ One of the goals of the plan is to reduce the number of children placed in institutional care to 25 percent of the total number of children deprived of parental care per year by the end of 2020.

During the implementation of the reform, amendments to the provisions of the Civil Code (hereinafter – the Code) regulating childcare have been adopted on 26 June 2018: the number of children that can be placed in foster care group families was reduced from 12 to 8, and possibilities to place a child in a care institution have been narrowed down. The new wording of Art. 3.261(1) of the Civil Code stipulates that a child left without parental care shall be placed in a childcare institution only in exceptional cases when it is not possible to place (take care of) him or her in a family environment or care centre. Children under three years of age may also be placed in childcare institutions only in exceptional cases on the grounds established in the Code, if: 1) the child requires specialised health or nursing care services; 2) separation of the child from his or her siblings would harm the child's best interests; 3) the child is placed in institutional care after the child has been urgently taken away from his or her representatives in accordance with the law and there are no possibilities to place the child in a family environment or care centre. In the case of urgent removal, a child under the age of three may stay in institutional care for no longer than three months.

During the implementation of the reform, some of the large childcare institutions were disbanded, community care homes for up to 8 children have been set up, care centres were being established, and caregivers were being professionally trained to provide temporary care for children in emergencies. According to the data of the Ministry of Social Security and Labour, a total of 18 care institutions subordinate to the state and municipalities have been reorganised⁵; 102 community childcare homes had been established by the end of 2019, providing care for 526 children by the end of the same year.⁶ According to the data of November 2019, care centres have signed cooperation and service agreements with 151 on-call caregivers; additional 45 on-call caregivers underwent appropriate training, but no agreements were signed with them.⁷ By the end of 2019, 289 children were placed in the care of 151 on-call caregivers and 80 social carers.⁸

When assessing the results of the institutional childcare reform, we should pay attention to the general statistics of children placed in care. In 2019, a total of 7450 children were placed in care, of which

1432 children were cared for in childcare institutions, which is 19.2 percent of the total number of children placed in care. According to the data published by the Child Rights Protection and Adoption Service, 1312 children were placed in temporary care in 2019, of which 296 were cared for in childcare institutions.⁹ Thus, the number of children receiving temporary care in childcare institutions in 2019 accounted for 22.5 percent of the total number of children placed in temporary care in 2019. 706 children were placed in foster families, 21 children received care in a family-type group homes, and 289 children – in a care centre. It should be noted that a care centre itself does not provide any care services and is not a care institution. Instead, it signs appropriate agreements with on-call caregivers.

In summary, statistics show that the reform is well underway, the scope of institutional care is declining, and the network of community childcare homes and caregivers is expanding, however, a significant number of children are still being placed in care institutions. Therefore, when planning the next steps of the reform, it is expedient to set more ambitious goals and strive for the complete abolition of childcare in large institutions.

There was also public opposition to the reform and the establishment of community childcare homes. In July 2019, residents of Latvygalos Street in Biržai revolted against plans to establish community childcare homes for eight children under the age of 8 on their street.¹⁰ Residents have drafted a petition opposing the establishment of the said childcare homes, and were outraged by the fact that the most beautiful area in their neighbourhood was to be given to children left without parental care. Shocked by the behaviour of Latvygalos street residents, people living on V. Kudirkos street in Biržai proposed to establish these community care homes on their street instead.

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Reform of Institutional Social Care Services

Ugnė Grigaitė

According to the data provided by the Ministry of Social Security and Labour (hereinafter – MSSL)¹, in 2019, there were a total of 32 institutions under the auspices of the Ministry in Lithuania providing social care services for older people, children, as well as adults and children with disabilities. These facilities accommodate 6687 residents and hold 4262 personnel positions.

Data of September 2019 on long-term social care services provided to persons with disabilities and children deprived of parental care in state social care institutions, the rights, and obligations of which are implemented by the MSSL² is as follows:

Long-term institutional social care	Number of stationary re-residential care units	Number of group living homes / community child care homes	Number of residents		
			Stationary residential care unit	Group living homes / community child care homes	Total
1. For persons with disabilities	33	26	6019	200	6219
1.1. For children (in Pabradė, Venta and Vilijampolė SCH)	3	5	56	30	86
1.2. For adults	30	21	5963	170	6133 (of which about 1840 are older persons)
2. For children deprived of parental care (Obeliai CCH, Algimantas Bandza Social Services Home)	2	10	12	77	89
Total:	32 institutions*	36	6031	277	6308
*There are currently 32 state social care institutions in Lithuania (on 1 January 2019, the rights and obligations of the owner of Skalvija CCH were assumed by Jurbarkas district municipality; on 1 July 2019, the rights and obligations of the owner of Pabradė CCH were assumed by Švenčionys district municipality; and on 1 September 2019, the rights and obligations of the owner of Šiauliai CCH "Šaltinis" were assumed by Šiauliai city municipality). Some of these institutions provide long-term residential social care for several groups of service recipients, therefore, there are fewer social care institutions than inpatient care units.					

Since 2014, the institutional care reform has been carried out in 6 regions of Lithuania: Dūseikiai social care home (hereinafter – SCH) reform in Telšiai district; Adakavas social services home reform in Tauragė district; Vilijampolė SCH reform in Kaunas district; Kalvarija SCH and Didvyžiai SCH reform in Marijampolė district; Venta SCH and Šiauliai CCH "Šaltinis" reform in Šiauliai district; and Pabradė SCH reform in Vilnius district.

The reform is being carried out in two directions: the development and provision of community based services, and establishment of new infrastructure. MSSL is responsible for the development of such services as temporary respite, assisted employment, personal assistance, sheltered housing, supported decision making, social workshops and case management services. New infrastructure is being built for day care centres, sheltered housing, and social workshops.

Group and independent living homes as well as specialised nursing / care homes are also being built. Activities have been launched to prepare several technical projects for typical group living homes, while preparations of investment projects for individual regions related to the reorganisation of social care institutions located in specific regions are being finalised. The following state-funded group living homes have been established by the end of 2019³:

Year	Number of group living homes	Number of residents		Municipalities that have or will have group living homes
		Children	Adults	
2017	11	10	62	Kelmė, Telšiai, Kėdainiai, Švenčionys, Akmenė districts, Kaunas city
2018	14	26	94	Kėdainiai district, Visaginas, Kelmė district, Panevėžys district, Šilutė district, Marijampolė district, Akmenė district, Tauragė district, Vilkaviškis district, Švenčionys district, Pakruojis district, Kaunas city, Šiauliai city
2019	3	6	18	Kaunas city, Marijampolė district
Total:	28*	38	174	

*On 1 September 2019, the rights and obligations of the owner of Šiauliai CCH "Šaltinis" were assumed by Šiauliai city municipality, which also became responsible for the 2 group living homes housing 12 children with disabilities.

In 2019, following the MSSL's decision to build a group living home in Žiežmariai which would accommodate 10 people with intellectual disabilities, the local community was outraged and clearly demonstrated its intolerance and exclusion of people with disabilities. Residents of Žiežmariai opposed to the relocation of people with disabilities to their town, saying that the plan to integrate such people is fictitious and had been intentionally kept from the knowledge of the town's residents. The locals also stated that people with intellectual disabilities themselves were not even informed about the reform or asked whether they support it. Residents of Žiežmariai also feared that the single employee assigned to provide support to the 10 people placed in the said group living home would simply not be enough. In response to the reaction of the local community, the director of the re-organised Strėvininkai social care home pointed out that the building will be used for residential purposes, thus, according to the law, permissions from neighbours are not required after a land plot is purchased⁴.

Seimas ombudsperson Milda Vainiutė, representing the Office of the Equal Opportunities Ombudsperson at the time, stated that this incident is not an isolated case but a systemic problem related to the long-term social isolation of people with disabilities. According to M. Vainiutė, although it is legally impossible to oblige people to think differently, state institutions responsible for the implementation of the UN Convention on the Rights of Persons with Disabilities should pay more attention to reducing the stigma of people with more complex disabilities. It is first of all necessary to follow the concept of inclusive education, where children with disabilities could study in general education schools together with their peers, by allocating the necessary resources and support to teachers⁵.

The Commission for the Monitoring of the Rights of Persons with Disabilities at the OEOO noted that this case revealed that Lithuania is not implementing its international obligations properly assumed with the ratification of the UN Convention on the Rights of Persons with Disabilities in 2010. In the opinion of the Commission and other experts, group living homes, as they are perceived in the implementation of the institutional care reform in Lithuania, do not comply with the provisions of the UN Convention: larger institutions are simply being replaced with smaller ones, thus not fully ensuring the autonomy and independence of persons with disabilities within the community, and not providing them with effective support services⁶.

This position is also supported by Prof. Jonas Ruškus, Vice Chair of the UN Committee on the Rights of Persons with Disabilities, who observed that, in principle, group living homes, as the main mean

of reorganisation and deinstitutionalisation, do not allow a person to choose where and with whom he or she wants to live, thus also not ensuring the implementation of the provisions of the UN Convention: "A person living in a care institution cannot choose to live anywhere else other than the assigned group living home<...> The deinstitutionalisation programme provides only for the provision of a place to live in group living homes and workshops for the development of work skills. Unfortunately, such deinstitutionalisation measures do not guarantee independent living and equal opportunities. The deinstitutionalisation programme funds institutions but not the persons who wish to live independently in our society".⁷

In summary, the actions of the MSSL have accelerated in the implementation of the institutional social care reform in Lithuania during the period of 2018 – 2019, however, new services currently being developed in the community such as group living homes do not comply with the UN Convention on the Rights of Persons with Disabilities. There is also serious lack of public education activities and awareness-raising campaigns to inform the Lithuanian population not only about the reform itself, its essence, necessity and importance, but also about equality and diversity in general, as well as the rights of people with disabilities and the obstacles that this group unjustly faces in our society.

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Deprivation of Liberty

8



Children's Socialisation Centres

Karilė Levickaitė

According to plans by the Ministry of Education, Science and Sport¹ (hereinafter – the Ministry), the number of operating Children's Socialisation Centres (hereinafter – CSC, centres) in Lithuania were reduced to three by the year 2019, however the CSC in Gruzdžiai has not yet been modernised and two new centres have not yet been established in Kėdainiai and Kelmė districts. Thus, by the end of 2019, there were three available centres: Gruzdžiai, Veliučionys CSC and Kaunas CSC ‚Saulutė‘. On 1 August 2019, 28 children² who received average care measures lived in these three establishments³.

The contract for the project „Modernisation of Infrastructure of Children's Socialisation Centres“ co-financed by the European Union's Structural Funds was signed on 28 November 2017. The project envisages establishment of new residential premises in the current Gruzdžiai CSC, and modernisation of premises and their adaptation for the socialisation of children in the newly developed centres in Gailiai village, Lioliai sub-district (Kelmė district) and Kunioniai (Kėdainiai district)⁴. Although the planned deadline for the project was 31 May 2020⁵, its current results are so far limited to technical project preparation work and the technical project of Kunioniai CSC, which was prepared on 24 July 2019, as well as the receipt of a building permit. The Chair of Kunioniai community centre expressed eagerness for the construction to start: „We will need service staff, specialists and other employees. I am glad that there will be new job openings. It is also wonderful that the building will finally be renovated and will no longer stand empty. At first, some people feared that the renovated building would be used as a prison, but when we explained the purpose of the institution that will be established here, everyone agreed to the idea. Our village will only benefit from it“.⁶

Adolfas Skališius, the former long-term director of Kaunas CSC centre, criticised the reform itself, its course and the use of remote areas for the establishment of CSC centres.⁷ He was seconded by Vitalija Grigaitienė, the director of Veliučionys CSC, who expressed doubts whether it would be a good solution to close the current children's socialisation centres and open new ones in their place somewhere in remote villages⁸: „We are located near Vilnius, and we use all the opportunities provided for children by the capital. In other words, children do not feel isolated, and they have greater chances to integrate into society when they leave this place.“

Disproportionate attention is paid to buildings and locations of these institutions without considering staff qualifications or provision of modern and high-quality services to children placed in these centres.

Jevegnijus Žikulinas, an educator of the former Vilnius Children's Socialisation Centre, publicly criticised the shut-down of socialisation centres, emphasising the abundance of issues suffered by these children and their tendency to commit crimes, as well as the need for CSC as a place to isolate children for their own safety and for the safety of the public⁹.

It seems that participants of the system are not inclined to change the system itself. Disproportionate attention is paid to buildings and locations of these institutions without considering staff

qualifications or provision of modern and high-quality services to children placed in these centres. It is expected that this niche will be partly filled by the implementation of the project launched in 2018 by the then Education Development Centre¹⁰, which is aimed at developing and implementing new models of education organisation in children's socialisation centres.¹¹

Meanwhile, young adults who have filed a lawsuit for damages against the now liquidated CSC Širvėna, which has been operating in Biržai district, claim that managers of the former socialisation centre did not provide them with a safe environment and did not even try to prevent crime, instead allowing criminally inclined teenagers to develop their criminal tendencies further¹². In 2019, the Supreme Court of Lithuania passed the final and unappealable ruling, according to which not only the abusive adolescent but also the responsible institution had to take the responsibility for the crime. The founder of CSC Širvėna – the Ministry of Education, Science and Sport has been obliged to pay a compensation of 4 thousand euros for non-pecuniary damage to each boy raped seven years ago.¹³

Currently active CSCs also present an abundance of issues. According to the police data, from September 2018 to mid-March 2019, 63 reports were registered and 14 pre-trial investigations were launched regarding actions of adolescents living in Kaunas CSC¹⁴. The Ombudsperson for Child's Rights received a request from the Inter-institutional Cooperation Coordination Division of the Vilnius City Municipality Administration regarding the issue of providing necessary conditions for children living in children's socialisation centres to participate in legal proceedings. The ombudsperson stated that it is necessary to ensure the smooth participation of children requiring medium care and supervision in legal proceedings, provision of assistance and support to these children and, if necessary, their legal representatives, as well as smooth and close cooperation between competent authorities in this field¹⁵.

The general public often still believes that imposing a punishment is an appropriate measure for children facing socialisation challenges. The development of various psycho-social services is less understood and supported both by Lithuanian society and by participants of the system, which hinders the creation of an adequate network of these services in Lithuania. Due to the widely publicised incidents of violence among children and adolescents, there is a widespread perception in society that children are becoming increasingly brutal and that stricter measures must be taken to punish them.¹⁶ According to the data by the Police Department, the number of cases of juvenile delinquency has dropped significantly: 4300 cases were registered in 2008, and only 1200 cases of crime were registered in 2018¹⁷. With the apparent decrease in the number of children entering CSC, it is important to pay more attention to the much-needed re-socialisation services in municipalities, including a range of minimum child care measures.

Lithuanian researchers who have studied causes of antisocial behaviour among adolescents receiving minimal care measures state that¹⁸ „Studies have shown that, in many cases, professionals (teachers, psychologists and social workers) working with these children see and acknowledge their traumatic past experiences, but find it more difficult to recognise and understand how such experiences affect the current behaviour of these adolescents.“

After analysing the application of minimum child care measures in municipalities, the following negative consequences were identified in the legal regulation monitoring certificate¹⁹ submitted by the Ministry in 2019: very weak involvement of non-governmental organisations in the range of coordinated services; lack of specialists in terms of coordinated services (education, social security, health care); not all possibilities of providing educational assistance, community initiatives and preventive work with the child and his or her social environment are used before the application of minimum child care measures; measures are allocated according to a predetermined template and the full burden of individualisation is placed on the implementer of the measure.

One of the challenges listed in the 2018 Social Service Provision Report of Vilnius City Municipality²⁰ is a lack of specialised services for children with behavioural and emotional problems, and children who are addicted to alcohol, drugs or psychotropic substances. Vilnius City Municipality, in cooperation with SOS Children's Villages, established a centre for six children with emotional and behavioural problems. Lietuvos Rytas television announced the fact that two children live in the centre, triggering a wave of public discussions²¹ in early 2018 regarding the centre's ineffectiveness and

high maintenance costs. A year later, at the beginning of 2019, Vilnius Children's Social Care Home 'Gilė' opened a division – a psycho-social rehabilitation centre for children aged 8-12 with behavioural and emotional problems.²²

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Prisons

Gintautas Sakalauskas

At the beginning of 2019, there were 232 prisoners per 100,000 people living in Lithuania¹, which is still the highest number compared to that of other European Union (EU) countries since Lithuania's accession to the EU.² Although this number has slightly decreased over the past years and reached the level of 2003, it still remained several times higher than the EU average. Only Russia (364), Turkey (324), Georgia (270) and Azerbaijan (235) had higher relative numbers of prisoners among the countries belonging to the Council of Europe.³ Large number of prisoners not only shows that we have a highly repressive culture of punishment compared to other EU countries, but also makes it more difficult to ensure human rights and implement the necessary reforms in our prison system.

In 2018, the number of newly-convicted persons (detained or imprisoned) has once again increased by 27 percent, compared to 2017. However, in 2019, this number decreased by 25 percent, reaching the lowest point over the entire period of our country's independence (4484; previously lowest number was recorded in 2015 – 4618).⁴

Even though fundamental problems in Lithuanian prisons have been evident throughout the last decade, and their systematic nature was pointed out by the European Court of Human Rights back in 8 December 2015 in the case of *Mironovas and Others v. Lithuania*,⁵ they did not become public until the summer of 2018, after the media began to publish the peripeteias of sub-cultural life in Lithuanian prisons.⁶ In 2018, a lot of information about violence and other human rights violations in Lithuanian prisons was published both by the media⁷ and the prisoners themselves who posted their experiences on social networks⁸. The problems of violence in Lithuanian prisons were acknowledged in the reports of Seimas ombudsmen⁹, in the judgments issued by courts¹⁰, and by the Prime Minister of Lithuania himself.¹¹ However, the situation did not change much in 2019.¹² Only a few tactical demonstrative campaigns¹³ were carried out to identify human rights violations,¹⁴ while managerial and corruption problems¹⁵ remained throughout the system.¹⁶

Over the past 10 years, an average of 8 prisoners have committed suicide in Lithuanian prisons each year. This number is 3 times higher than the suicide rate per 100,000 of the general population (25 suicides per 100,000 population¹⁷, which would be equal to about 80 suicides among a corresponding number of prisoners). In 2018, this number was half the average of the last 10 years (with 4 registered prisoner suicides), however, no death statistics were provided in the monthly, quarterly and semi-annual reports of the Prisons Department under the Ministry of Justice of the Republic of Lithuania for 2019, which have been available in previous years. Even the annual report of the Prisons Department under the Ministry of Justice of the Republic of Lithuania for 2018 was made public only at the end of 2019. A media report of 2 August 2019 shows that one prisoner committed suicide in Pravieniškės correctional facility–open colony.¹⁸ Press releases of the Prisons Department under the Ministry of Justice of the Republic of Lithuania show that another prisoner committed suicide in the Pravieniškės correctional facility–open colony on 20 September 2019.¹⁹ There are also other publications regarding prisoner deaths published by the media in 2019, however these publications do not specify the cause of death, instead simply indicating that an investigation has been launched to determine the cause of death.²⁰

The number of criminal offences registered in Lithuanian prisons has been steadily increasing over the past 4 years. The high latency of criminal offences does not necessarily indicate a negative trend, however, the relative number of registered crimes in Lithuanian prisons is almost 2.5 times higher than the number of crimes registered outside of prison establishments. The majority of registered criminal offences are related to drugs and other psychotropic substances (56 percent in 2018).²¹ However, a relatively high level of violence has also been recorded.

On 25 April 2018, the Director of the Prisons Department under the Ministry of Justice of the Republic of Lithuania issued an order²² establishing the procedures for organisation of continuation of substitution treatment for detainees and convicts, information exchange between specialists, commission and receipt of specialist consultations in other personal health care institutions, ordering, receipt and storage of medicines for substitution treatment, preparation, processing and accounting of documents, as well as the rights, duties and responsibilities of individuals in prisons. The description of the procedure applies to the organisation of substitution treatment for opioid dependence for persons who have started their substitution treatment in other institutions but were unable to complete the entire course. It is not yet known how this procedure is being implemented in practice and how many prisoners receive substitution treatment. There have been cases in Lithuania where failure to provide substitution treatment has been declared by the court as incompatible with Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms.²³

The Law on Amnesty of the Republic of Lithuania entered into force on 1 January 2019, under which amnesty could be applied to approximately 500 convicts. However, in the end, only 86 convicts were able to use the amnesty due to extremely strict conditions provided by law.²⁴

According to the new wording of Article 51 of the Criminal Code of the Republic of Lithuania, which entered into force on 2 April 2019, persons sentenced to life imprisonment were granted the opportunity to change their sentence to a fixed term of imprisonment of five to ten years after serving a sentence of twenty years. The European Court of Human Rights has ruled that such procedure for exercising the right to hope is appropriate,²⁵ even though it seems rather complex and has so far been applied to only a small number of convicts sentenced to life imprisonment.²⁶

Lukiškės remand prison was closed on 1 July 2019, and the convicts that were imprisoned there were compensated for poor imprisonment conditions. On the one hand, the fact that this building will no longer be used as a prison is to be welcomed, however, the hasty closure of the institution has caused two other problems: a) an even greater shortage of places of imprisonment and poorer conditions for convicts,²⁷ and b) human rights violations due to the reckless transfer of prisoners without concern for their adaptation, and with the severance of their social rehabilitation and social ties.²⁸

An increasing number of convicts are released after serving their full sentences, as application of parole is becoming less common. However, there is still no coherent system for the re-socialisation of convicts released from prison after serving their full sentences.²⁹ Non-governmental organisations raise concerns that the funds allocated by the Norwegian Government for the reform of the Lithuanian penal system will not be used effectively.³⁰ The organisations are also concerned that these funds will be used for buildings and electronic tagging, instead of staff training, prisoner employment, development of social services and structural reform of the entire prison system.

A report issued on 25 June 2019 by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)³¹ after its visit on 20–27 April 2018 revealed that the Lithuanian prison system has the same problems as those identified by the CPT in its previous reports (2011, 2014, and 2018). According to the CPT's assessment, no substantial changes have been made, particularly regarding the living space of prisoners, violence from other prisoners and officials, and health care. This shows that problems in Lithuanian prisons are systemic and cannot be resolved without a fundamental overhaul of not only the entire prison infrastructure, but also the staff training and professional development system, thus fundamentally changing the management culture and the quality of relations between staff and prisoners.³² No systemic changes are being made or planned, except for individual tactical but not strategic decisions.

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Prohibition of
Violence

Domestic Violence

Laima Vaigė

According to the data of the Information Technology and Communications Department under the Ministry of the Interior, 9 530 criminal offences related to domestic violence were registered in 2018, which is 13.2 percent less than in 2017.¹ 7 695 cases of domestic violence were registered in 2019, meaning that in 2019 there were 19.3 percent less criminal offences related to domestic violence compared to 2018. However, the dropping number of *registered* criminal offences does not necessarily indicate that the extent of domestic violence in Lithuania is actually decreasing.

As emphasised by the United Nations (UN) Special Rapporteur on Violence against Women, the growing number of reports of violence shows confidence in the state's ability to combat domestic abuse, however, it is particularly important to monitor the percentage of cases where no sanctions have been imposed on the abuser.² This indicator would reveal whether the current legal and political measures have made an actual impact on people's lives. 41 531 reports of domestic violence were received in 2018, and 53 075 such reports in 2019.³ Although there were *more* reports of domestic violence in 2019 than in 2018, the number of registered crimes decreased. There are fewer and fewer people recognised as abusers every year: 2 385 in 2018, and 1 768 in 2019.⁴ In 2018, 1 793 individuals were convicted of domestic violence and were placed in a behaviour change program.⁵ Thus, we should continue monitoring the data and analysing why the number of registered criminal offences is decreasing, even though the number of reported crimes is increasing.

Although police officers register fewer violence related crimes, an increasing number of people suffering from domestic violence need comprehensive support each year.⁶ Human rights organisations note the lack of more effective inter-institutional cooperation between the police and other institutions and stakeholders.⁷ For example, a person may go to the doctor or specialised assistance centres (SACs) instead of the police. SACs can inform police officers about the threat of violence, but cannot receive any information about specific actions taken by the police, and cannot obtain such information under the current legislation.⁸ There is also a lack of coordination with other relevant bodies, such as child protection services and schools.

The police operates according to the Description of the Procedure for Responding to Reports of Domestic Violence approved in 2018 by order of the Commissioner General. The procedure specifies that, after receiving a report on violence, the abuser and the victim must be separated in order to prevent the victim from being threatened or otherwise affected.⁹ Practice shows that when a woman refuses to talk about violence due to fear or other reasons, even in the presence of persons who witnessed the violence, the report on violence can be recorded as 'unconfirmed information'.¹⁰ If the woman does not pursue charges or changes her testimony, the accused person may be acquitted when the case reaches the court.¹¹ Thus, the position of the victim is still very important in practice, and it is therefore important to ensure the victim's safety, enabling aid and confidence in the legal system.

The majority of victims of violence are women (80.2 percent in 2019), and the majority of suspects are men,¹² however, current legal acts do not yet provide for a gender-sensitive approach. In 2018, non-governmental organisations providing comprehensive assistance to the victims of domestic violence established the Lithuanian Women's Rights Association (LMTIA),¹³ the aim of which is to raise public awareness, promote the development of the institutional capacity of specialised assistance centres, provide quality assistance to all victims of violence, represent members of the association in state institutions, combat all forms of discrimination against women, etc.

Human rights organisations and specialised assistance centres have repeatedly called for ratification of the Council of Europe Convention on preventing and combating violence against women

and domestic violence (Istanbul Convention),¹⁴ which would also help combat negative gender stereotypes and ensure more effective prevention of gender-based violence. However, almost half of the members of the Seimas declared their opposition to the Istanbul Convention,¹⁵ which allegedly contradicts the idea of “assigned sex”. The Ministry of Social Security and Labour has also proposed postponing its ratification.¹⁶ In 2018, the then President Dalia Grybauskaitė signed a proposal to the Seimas to ratify the Convention.¹⁷ After the proposal, bishops spoke out against the ratification of the Convention. In their view, the Istanbul Convention will not help combat domestic violence and violence against women.¹⁸ The clergy argue that the Convention would distort “natural” differences between sexes and suggest strengthening the institution of the family by emphasising the difference between men and women. The Convention has not yet been ratified, since the politics of the majority of the Seimas and the influential Roman Catholic Church coincide in this regard.

At the end of 2019, the UN Committee on the Elimination of Discrimination against Women (hereinafter – the Committee) once again expressed its concern about Lithuania’s delay to ratify the Istanbul Convention.¹⁹ Among other things, it was recommended to increase funding for SACs and expand the network of SACs in rural areas. The Committee also noted that establishment of mandatory mediation in all family disputes (amendments to the Mediation Law came into force on 1 January 2020) could have negative consequences for victims of domestic violence. Enforcement of mandatory mediation for victims of domestic violence is contrary to the requirements of international and European Union law.²⁰

Lithuania will have to submit another report to the UN Committee on the Elimination of Discrimination against Women in 2023, however, some points of the recommendations need to be reported in two years’ time.

Lithuania will have to submit another report to the UN Committee on the Elimination of Discrimination against Women in 2023, however, some points of the recommendations need to be reported in two years’ time.²¹ Firstly, information will have to be provided on the attitudes of judges, prosecutors, and police officers, their assessment and provision of mandatory training on gender-based violence and gender-sensitive approaches. Secondly, the Committee hopes that Lithuania will adopt amendments to the law on provision of civil protection measures to victims of domestic violence, and will expect a report thereof in two years’ time.

Several important draft laws related to domestic violence have been submitted in Lithuania. For example, the Seimas began to consider criminalising unlawful persecution of a person.²² It was also proposed at the end of 2019 to provide for an exemption not to apply mandatory mediation in family disputes where there is evidence of domestic violence.²³

In summary, fewer criminal offences related to domestic violence were registered in Lithuania between 2018 and 2019 compared to previous period, however, it is not yet possible to conclude whether this type of violence is actually decreasing. Human rights organisations have consistently called for ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, but this has been opposed by politicians and bishops. In 2019, the UN Committee on the Elimination of Discrimination against Women issued recommendations to Lithuania, which, just like five years ago, emphasised the need to effectively combat domestic violence and abuse against women.

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Violence Against Women and Sexual Harassment

Laima Vaigė

At the end of 2019, the Office of the Equal Opportunities Ombudsperson (OEOO) issued recommendations on providing assistance to women experiencing violence.¹ The recommendations specify that it is first of all necessary to provide doctors, social workers, child protection workers and other professionals with comprehensive training on the causes and consequences of systemic gender-based violence. In 2018, the OEOO and its partners also issued recommendations for journalists on how to write about violence against women.² The role of the media is particularly important in the society, thus, it is important to write about violence against women ethically and without stereotypes.

Discussions took place in 2018 about the social campaign against violence (“Support”) initiated by OEOO and its partners, which was part of a larger project intended to change public attitudes towards violence against women.³ Some members of the Seimas and representatives of the Government condemned the “Support” campaign,⁴ calling for its termination. The campaign was said to compromise priests, judges and other persons who were urged to support rather than blame women who were victims of violence. Human rights organisations supported the OEOO campaign and encouraged to fight against violence and not against social campaigns that are addressing the issue.⁵



According to a study conducted by the Human Rights Monitoring Institute, women suffering from domestic violence are often accused by the Lithuanian society of contributing to or provoking violence against them.⁶ Violence itself is still often viewed only as physical abuse, while sexual violence is perceived narrowly. The study revealed that economic and sexual violence and coercion are the least recognised forms of abuse in Lithuania.⁷ Therefore, in order to raise public awareness of the violence experienced by women and to change negative attitudes towards victims, it is very important to organise social campaigns exposing these problems.⁸ According to the data of OEOO, more than 60 percent of the population has encountered some type of social advertising about violence against women over the past few years.⁹ At the end of the relevant projects, respondents were able

to recognise violence a little better and there were positive changes in the negative attitudes toward the victims.¹⁰

In 2019, a teenage girl was severely injured in a rural tourism homestead in Tauragė,¹¹ which caused a wide resonance in the country. The girl underwent a three-hour jaw surgery requiring titanium plates to be placed in several areas, however, the suspect was released just two days after his arrest without being required to wear an ankle monitor. Electronic monitoring of the suspect was renewed only after journalists began writing about this case. The suspect has been charged with minor health impairment, sexual violence, and attempted rape. He was found guilty by the court of first instance, however, his prison sentence has been postponed.¹² This has led to a wide public debate and suggestions to take sexual violence more seriously, and not only when certain cases are publicised by the media. Nevertheless, during the period under review, there were no state-level programs to reduce gender-based violence experienced by women and girls on the streets, at parties, on dates, in public places, etc.

Women who have been sexually harassed also have difficulty seeking justice. For example, even after four women working in the same company filed complaints of sexual harassment at their workplace, the investigation was terminated due to insufficient data, and resumed only after the case was publicised by the media.¹³ It is difficult to achieve justice in criminal proceedings, and civil redress for sexual harassment is still rarely claimed, even though providing proof is easier in this area. Enforcement of administrative or disciplinary liability for sexual harassment is also avoided. According to a survey conducted by the Lithuanian National Union of Students, as many as 91 percent of students who experienced psychological or sexual violence did not report these incidents.¹⁴

Nevertheless, some Lithuanian employers have shown interest in preventing sexual harassment. For example, in 2018–2019, the Lithuanian Centre for Human Rights and the Center for Equality Advancement prepared a training program on preventing sexual harassment and tested it out in nearly 10 companies.¹⁵ In 2019, under commission of the Lithuanian Film Center, the Lithuanian Centre for Human Rights and the Center for Equality Advancement conducted a survey, aimed at assessing the prevalence of sexual harassment in the Lithuanian film industry.¹⁶ 24–41 percent of respondents out of 119 surveyed people stated that they experienced sexual harassment at one time or another. This type of harassment was particularly prevalent among women who experienced it 3–6 times more often than men. Although the survey did not include cases of sexual abuse, many respondents talked about both sexual harassment as well as sexual coercion and violence.

Certain changes may be encouraged by the obligations of the state assumed under international law. In September 2019, the Court of Justice of the European Union issued its judgment in the case of a teenage girl abducted in Dembava who called the emergency line 112 several times from the trunk of a car.¹⁷ Since the girl's mobile phone did not have a SIM card, her location could not be determined in time and the girl was brutally killed. However, the state was obliged under European Union law and received funding to ensure that 112 emergency calls work without a card. At the end of 2019, Vilnius Regional Administrative Court ruled that, by failing to prevent the murder in Dembava, the Lithuanian state had violated its obligations and must pay damages of 91 thousand euros.¹⁸ This was the first time that Lithuania was recognised by its national court as having contributed to a murder due to inaction.

The government's report to the UN Committee on the Elimination of Discrimination against Women stated, among other things,¹⁹ that a proposal to amend the government's resolution on domestic violence would be submitted as early as in 2018.²⁰ These amendments would be significant in order to prepare Lithuanian law for the ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention). They are also needed to, at least in secondary legislation, set the aim to combat *all* forms of gender-based violence against women, and not just domestic violence. However, no such amendments have been adopted until 1 January 2020.

The UN Committee on the Elimination of Discrimination against Women has adopted recommendations for Lithuania, highlighting the area of violence against women.²¹ It was recommended to recognise discrimination against transgender women as discrimination on grounds of gender and to include the concept of intersectional discrimination in the legislation. As mentioned in the section on domestic violence, it was recommended to monitor public attitudes in terms of women who became victims of violence and prepare a report on this matter in two years' time.

In 2019, amendments to the Law on Equal Opportunities were submitted to the Seimas.²² Among other things, it was proposed to ban sexual harassment in the area of consumer rights. A new legislative proposal to criminalise the purchase of prostitution has also been introduced.²³

In summary, in 2018 and 2019, the Office of the Equal Opportunities Ombudsperson and non-governmental organisations have done a great deal in the field of preventing violence against women and sexual harassment. Journalists were provided with guidelines on how to write about violence against women, specialists were issued recommendations on how to provide support, and appropriate social campaigns were organised. Non-governmental organisations also developed a sexual harassment prevention training program which was tested out in companies and conducted a survey on sexual harassment in the Lithuanian film industry. However, there have been no significant legal or political changes in this area in Lithuania, and there were even attempts to stop some of the social campaigns on violence against women. Victims of violence and sexual harassment continue to find it difficult to achieve justice in Lithuania.

Victims of violence and sexual harassment continue to find it difficult to achieve justice in Lithuania.

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Violence Against Children

Ieva Daniūnaitė

The concept of violence against children includes physical, sexual and emotional abuse of children and adolescents by their parents/guardians or other adults, as well as neglect, visible domestic violence and bullying from peers.¹ Violence, either directed towards or witnessed by the child, is considered to be one of the most damaging experiences. The experience of childhood violence is associated with lower academic achievements, mental and physical health problems, and higher inclination towards aggression, crime, violence, suicidal behaviour, lower quality of life, and poorer social functioning.² It is a complex issue that, if left unaddressed, contributes to the social and economic burden placed on the whole society.

On 14 February 2017, Lithuania has legally banned all forms of violence against children, including physical punishment.³ The definitions of violence against children were later adjusted in the law to reconcile the differing views of specialists and members of the public. It is important to note that the prohibition of physical punishment has been retained in the law.⁴ Adoption of the prohibition and ensuing debates have made a significant contribution to changing public attitudes and tolerance of physical punishment and violence against children. This is also evidenced by the growing number of reports of possible violence against children.⁵ There are publications in the media that not only criticise the children's rights protection reform and the work of specialists, but also reveal the actual situation of children who are suffering from violence.⁶ Annual public opinion polls should be carried out to assess the actual views of our society in terms of physical punishments, changes in these views, and possible contributing factors.

A clear prohibition of all forms of violence is an important step in protecting children. However, an effective prevention and response system is required for the implementation of child protection.

Systematic violence prevention should include actions focused on three areas:

- Primary prevention – information campaigns and services available to all members of society to prevent violence;
- Secondary prevention – services for vulnerable groups experiencing psychological and/or social difficulties that increase the likelihood of violence;
- Tertiary prevention – response to violence in order to stop it, prevent its recurrence and provide necessary assistance to remedy its consequences.⁷

In terms of primary prevention, there is a huge need for psychological, social, and educational activities. When questions arise, parents who are expecting or already raising children are no longer as reluctant to seek counselling or attend relevant courses. This provides the opportunity to address difficulties in a constructive way and prevent damaging punishments or violence. The need for psychological and social services is currently at least partially met by the Integrated Family Services Project implemented in all municipalities of the country and supported by the European Union Funds Investment Action Program. In Vilnius alone, these services were provided to 5 122 people during the two years of project implementation.⁸ Nevertheless, poor access to integrated services still remains a problem in remote areas located further away from municipality centres. There is also the question of who will satisfy the immense need for these services at the end of the project.

Another initiative that has proven to be successful was establishment of the “Parent Line” during the second half of 2017, the consultants (professional psychologists) of which answered 2440 calls related to raising children and resolving crisis situations over a period of two years.⁹ However, the continuity of the “Parent Line” initiative depends on project funding, and currently available funds

allow professional psychologists to provide consultations only during a certain part of the day. During the period under review, social campaigns promoting positive parenting ideas and intolerance of violence against children were initiated in Lithuania by non-governmental organisations on a relatively small scale.¹⁰ There is a great need for a social information campaign that would reach all or most of the country's population.

Lack of services for vulnerable groups (secondary prevention) is currently a major concern. Families who are experiencing social-psychological difficulties or raising children with disorders require specialised professional services (e.g., systemic family therapy, therapy for adolescents with behavioural disorders, etc.). However, effective implementation of such services requires a high level of professional competence, financial resources, and systemic changes. The first centres to provide such services to children with emotional and behavioural difficulties are currently being established, however, they are not able to meet the current need for such support. For example, a psycho-social rehabilitation centre – branch of Vilnius children's social care home 'Gilė' opened its doors in 2019 and can provide services for up to 8 children at a time.¹¹

When it comes to providing specialised assistance to children who have experienced violence, we also face the above-mentioned persistent problems of limited project funding and limited access to services in small municipalities and remote areas.

An important systemic achievement has been reached in the form of amendments to the Code of Criminal Procedure, which entered into force on 1 July 2018, providing that a psychologist must be present at the interviews of children and minors who have become victims of crimes against human life, health, liberty, sexual freedom and integrity, children and family, exploitation and involvement in prostitution, or in other cases where the presence of a psychologist is requested.¹² The amendments make it possible to better safeguard the interests of child victims of violence in criminal proceedings and ensure that the testimonies of these children are as detailed and reliable as possible. To fully ensure the rights of children and adolescents in criminal proceedings, it is important to implement a uniform procedure and protocol for the questioning of minors.

To prevent the recurrence of violence, it is also important to ensure that services are provided not only to victims but also to the perpetrators. Probation services and some crisis centres are implementing appropriate behaviour change programs, but there are no programs or services in Lithuania for persons who sexually exploit children or are at risk of exploiting them. This is particularly relevant, as the number of cases of sexual exploitation of children is increasing.¹³

Reform of the children's rights protection system that was initiated in Lithuania in 2017–2018 received conflicting feedback. Newly identified and assessed cases of continuing violence and neglect that have been monitored by relevant services for many years show that there was a need for change.¹⁴ The main topic of current debate is assessment of risks and needs which is opposed by part of the public and some specialists who argue that this could violate the rights of the family.¹⁵ Risk assessment is used in many countries of the world to evaluate child's safety and family situation, as well as prepare a plan for providing support to the child and their family. Of course, this type of work requires a high level of competence and professionalism which we should strive for. The state is increasingly investing in education of professionals working with minors by organising appropriate training for mobile teams, care centre specialists and police officers.¹⁶ It is, however, necessary to develop a systematic and unified professional development plan. When addressing professional development, it is important to take into account that the competence of specialists is comprised of not only their knowledge and skills, but also of their attitudes towards children and families. One training session or six months of work in the reformed system may not be enough to change attitudes.

The biggest remaining challenge in protecting children from violence is whether to give priority to the safety of the child or the interests of the family.¹⁷ This conflict of interests is detrimental not only

To prevent the recurrence of violence, it is also important to ensure that services are provided not only to victims but also to the perpetrators. ●

to the children but also to the families themselves. The safety and well-being of the child should be a priority in every healthy functioning family, as well as a healthy child living in a healthy family should be a priority of the state.

In summary, it can be stated that child safety in Lithuania is still not viewed as a state priority, the implementation of which requires consistent public education, financing of effective services for families, and ensuring appropriate qualifications and cooperation of specialists.

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Human Trafficking and Other Forms of Exploitation

10



Human Trafficking and Other Forms of Exploitation

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During the period under review, programmes aimed at prevention of human trafficking and competence building of civil servants in the fight against exploitation continued to be implemented, and funding for non-governmental organisations providing assistance to victims was increased.¹ It could be said that Lithuania has an effective legal framework in line with international standards in the field of combating human trafficking. On the other hand, it should be noted that Lithuania lacks a system that would ensure the protection of victims and a comprehensive provision of assistance for the affected persons. Members of both the society and responsible institutions often lack the skills and knowledge to identify victims of human trafficking, and there is also a lack of effective measures aimed at combating the exploitation of migrant workers in Lithuania.²

In 2018, 14 new pre-trial investigations of human trafficking and labour exploitation were started in Lithuania. Compared to previous years, the number of investigations has decreased by more than half. Prior to 2018, the number of pre-trial investigations was growing steadily, with a record number (35) reached in 2017. In 2018, most investigated cases were related to exploitation for criminal purposes (7), human trafficking for forced labour (3), sexual exploitation (3), and exploitation for begging (1).³

However, official statistics arguably do not reflect the real scope of human trafficking. On the contrary, the decrease in the number of pre-trial investigations can be interpreted as a consequence of challenges associated with victim identification and lack of trust in law enforcement authorities.⁴ This is also shown by the number of persons consulted by non-governmental organisations: in 2018, all NGOs working with victims of human trafficking provided assistance to 239 individuals, which is almost 10 percent more than in 2017.⁵ Therefore, it is important to ensure further development of information and prevention campaigns against human trafficking, and to implement programmes aimed at building capacities necessary to recognise human trafficking cases.

As in previous years, law enforcement officers did not sufficiently protect the rights of victims of human trafficking during the process of pre-trial investigations. The latter are often questioned many times (sometimes more than 10 times) in the course of the investigation; there are even cases where the total questioning time of each person is almost two days.⁶ In most cases, this is an unnecessary, excessive practice that can have traumatic consequences and discourage victims from cooperating with the law enforcement officers. In the meantime, there is a lack of high-quality psychological assistance available to victims during the course of investigation and trial, even if victims were sometimes intimidated by the accused directly in the courtroom.⁷ While exploited individuals are provided with state-paid lawyers, these lawyers often lack the necessary competences, forcing NGOs to look for private lawyers instead.⁸

According to representatives of non-governmental organisations, victim blaming is still widespread both in the society and among the law enforcement officials.⁹ The latter do not always understand and respond to vulnerability of victims, especially in cases when victims themselves become involved in activities related to trafficking of others and other forms of exploitation without being subjected to physical violence.¹⁰ The lack of ability to identify human trafficking cases and the tendency towards victim blaming can also be observed in the social environment of the affected persons themselves.¹¹ The majority of victims live in villages and small towns, and those who experience

sexual and other forms of exploitation mostly come from families at social risk and orphanages. It is therefore essential to ensure that support and prevention programmes reach more remote areas and groups most at risk.¹²

There has been an increase in the number of cases of exploitation when the internet becomes a platform for both grooming and committing crimes. In 2018, the first ever case of ‘web-models’ related to forced labour on pornographic websites in Lithuania has been closed.¹³ In the country, just as in the rest of the world, social networks are increasingly used for grooming, and become a place where crime organisers and perpetrators are looking for vulnerable individuals by utilising accounts of other victims. This type of exploitation is particularly difficult to identify and investigate, and requires training of the law enforcement personnel.¹⁴

Taking into account the steady growth of the number of labour migrants coming to Lithuania, insufficient attention is being paid to protect the rights of the latter group. The number of cases of exploitation of foreign citizens documented by the media and non-governmental organisations seem to have increased during the period under review; the non-governmental organisation Center Against Human Trafficking and Exploitation (KOPZI) noted cases of exploitation of citizens of Nepal, China and Ukraine.¹⁵ Yet, the exploitation of foreigners is rarely investigated, and victims often experience a rather reluctant and slow response from law enforcement authorities.¹⁶

There are increasingly more cases when labour migrants are not paid for work as promised,¹⁷ and are forced to live in unsanitary and unsafe conditions.¹⁸ Some migrants do not know where to ask for help and often have to sign employment contracts drafted in Lithuanian language, since employers take advantage of the fact that migrants do not understand Lithuanian.¹⁹ Hence, it is important to improve inter-institutional cooperation as well as to strengthen prevention and information campaigns which would also reach labour migrants. There have been positive developments in that some employers were inspected by the Lithuanian Police and the State Labour Inspectorate in order to address possible exploitation and illegal work situations, and joint operation groups were established unifying different institutions in Vilnius and Klaipėda regions to investigate such cases of exploitation.²⁰ On the other hand, it is important to ensure the effectiveness of such structures and make sure that migrant rights are not violated once cases of illegal work are identified.

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11



Migrant and
Refugee Rights

Migrant Rights

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Significant changes that took place in the area of migrant rights during the reported period and the adoption of strategic documents at the state level demonstrate the relevance of this issue. On 4 December 2018, the Seimas adopted the resolution “On the United Nations Global Compact for Safe, Orderly and Regular Migration”¹, which recognises migration as a global phenomenon and stress “the need to ensure the security of national borders, communities and migrants and to effectively combat trafficking in human beings and the smuggling of migrants”.

The Strategy for Demography, Migration and Integration 2018–2030 has been approved by the Seimas on 20 September 2018², while the inter-institutional action plan for this strategy has been approved by the Government on 5 December 2018³. The mentioned strategy sets out the main goals, directions, and targets for the development of the country’s demographic, migration, and integration policy. One of the goals of the strategy is related to the management of migration flows which would meet the needs of the state, and one of the set objectives is to promote a proportionate entry of foreigners through the implementation of the attraction, acceptance, integration and communication policy (Objective 2.1). However, it should be noted that the strategy mainly focuses on return migration of citizens of the Republic of Lithuania and persons of Lithuanian origin, and only partially mentions certain groups of foreign citizens (foreign citizens studying in Lithuania, highly qualified workers, and foreigners who are family members of Lithuanian citizens). The strategy lacks specific measures of long-term integration of non-EU nationals, which partly reflects the situation of implementation of the migration policy in Lithuania. Speaking in terms of segmented assimilation⁴ the governmental response to the conditions on the non-EU nationals’ integration in Lithuania could be referred to ‘active encouragement’ and ‘passive acceptance’.

The “active encouragement” policy measures are explained as policy measures that aim to attract a certain group of migrants to the destination country and to facilitate their establishment and living conditions in the receiving society. This kind of support is crucial, because it provides access to resources that is not available to other groups of migrants (Portes et al., 2001).

“Active encouragement” policy could be assigned to highly qualified workers and nationals of specific countries (e.g., Australia, Japan, USA, Canada, New Zealand and South Korea) arriving to Lithuania for work purposes, as well as their family members. Such tendencies are also confirmed by the amendments of the Law on the Legal Status of Aliens, according to which citizens of Australia, Japan, USA, Canada, New Zealand and South Korea are issued temporary residence permits on more favourable conditions⁵ (came into the force on 1 September 2019). Besides, the quotas have been introduced for foreigners coming to Lithuania for work purposes (effective as of 1 July 2020 and 1 January 2021). Quotas have been introduced for professions that are needed the most in Lithuania, however, they will not be applied to highly qualified employees⁶. It has been stated that this system is aimed at combating cheap and unskilled labour force from non-EU Member States. Though experts are critical and emphasise that quota system is applied in only a few EU countries – Estonia, Hungary, Italy, Slovenia, and Austria.⁷

It should also be noted that a Startup Employee Visa procedure has been consolidated on 29 April 2019 under a memorandum signed by the Ministry of Economy and Innovation, Ministry of the Interior and Migration Department, which is aimed at reducing barriers to the entry of highly qualified specialists required by startups in Lithuania. It is stated that the aim of the procedure is to enable to hire highly qualified employees from abroad, promote their successful integration in Lithuania and create favourable conditions for that.⁸

Meanwhile “passive acceptance” refers to the policy measures, when migrants are granted legal access to the destination country, but the state authorities do not take any additional measures to

facilitate their adaptation into receiving society (Portes et al., 2001). The recent developments observed during the reported period are mainly associated with the admission of foreigners by simplifying certain terms for issuing temporary residence permits and improving the quality of residence permit related services instead of the implementation of migrant integration measures. The stagnation of the migrant integration policy has long been evidenced by the Migrant Integration Policy Index (MIPEX). The data of the study shows that Lithuania is at the bottom of the list of the EU Member States, and the integration policy of migrants in Lithuania has not changed substantially since 2007⁹

It can be assumed that this assessment will change due to the adoption of the Action Plan for 2018–2020 on the Integration of Foreigners Into Society¹⁰ which aims to “improve the implementation of integration of foreigners and ensure their successful integration into society”. Despite the significance of the Action Plan, it should be noted that the main financial resource of this Plan is the Asylum, Migration, and Integration Fund (AMIF). Consequently, the implementation of migrants’ integration in practice remains fragmented and project based, hardly ensuring the continuity of the activities.

During the reported period, there was a rapid increase in the number of foreigners coming to Lithuania for work purposes (mainly citizens of Ukraine, Belarus, and Russia). The majority of temporary residence permits were issued to specialists included in the list of professions in short supply in Lithuania¹¹. Individuals with the most in-demand professions accounted for 68 percent of all foreigners who came to work in Lithuania during the first seven months of 2019. Nevertheless, a study conducted by the Lithuanian Free Market Institute (LFMI)¹² reveals that Lithuania does not sufficiently use the labour force potential offered by foreigners. Among the recommendations issued to Lithuania, LFMI experts distinguish that procedures should be faster, the administrative and regulatory burden of admission and hiring should be reduced; the residence permits should be issued faster; a work permit should be valid for the entire country rather than for a particular employer; conditions for family reunification should be facilitated, etc.

The entry of labour migrants have been facilitated by the amendments of the Law on Legal Status of Aliens.¹³ While on 7 December 2018 the Government of the Republic of Lithuania and the Cabinet of Ministers of Ukraine signed the agreement which aims to strengthen cooperation between Lithuania and Ukraine and provide mutual assistance in order to safeguard the rights and interests of the workers of these countries and combat illegal employment¹⁴. This is particularly important taking into account the latest trends of migration in Lithuania, when the majority of recent migrants are citizens of Ukraine.

As the number of foreign citizens entering Lithuania grew, the number of cases of irregular migration also increased¹⁵. The Migration Department reported that 2 919 foreigners were not allowed to enter the country in the first half of 2019 alone (which is 18.1 percent more cases than in the same period in 2018). The majority of irregular migrants in 2018 were Vietnamese nationals (45 percent of all irregular migrants). On 23 January 2019, an agreement was signed between the governments of the Republic of Lithuania and the Socialist Republic of Vietnam, which is aimed at combating irregular migration and carrying out the necessary procedures for deporting Vietnamese citizens who have entered Lithuania illegally in a more efficient manner.¹⁶

The number of foreign nationals temporarily accommodated in the Foreigners’ Registration Centre of the State Border Guard Service (hereinafter – Centre) also increased during the reported period. An investigation conducted in 2019 by the Seimas Ombudsmen’s Office revealed that the rights of foreigners living in the Centre are not properly ensured, and the language barrier prevents the staff working in the Centre from meeting the special needs of detained foreigners. After considering the problems identified during the mentioned investigation, the Seimas Ombudsman submitted appropriate recommendations to take measures to ensure that a sufficient quantity of hygiene products are provided to those living in the Centre; to ensure that foreigners receive food that conforms to their religious beliefs; and to provide sufficient funding for improving the foreign language skills of employees working in the Centre as well as improving the living conditions and meeting the special needs of foreigners detained in the Centre.¹⁷

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Rights of Refugees and Asylum Seekers

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During the reported period, Lithuania continued to fulfil its obligations as an EU Member State and implemented the programme for the relocation of foreigners in need of asylum to the Republic of Lithuania. Lithuania undertook to relocate 1077 persons until 31 October 2019. According to the data of 1 January 2020, 493 persons have been relocated to Lithuania since the beginning of the implementation of the programme in 2015.¹ On 23 October 2019, a resolution has been adopted by the Government to extend the deadline for the relocation of asylum seekers to the Republic of Lithuania until 30 June 2021.²

According to the results of the study National Integration Evaluation Mechanism (NIEM)³, the enforcement of the integration policy of beneficiaries of international protection in Lithuania is assessed as unfavourable (20.7 points out of 100). Most of the flaws in enforcing the integration of persons who have been granted asylum exist in the areas of housing, education, and 'building bridges', with the field of vocational training receiving the highest mark. In addition, the integration policy is placed on short-term rather than the long-term integration measures.⁴

On 21 December 2018⁵ the Action Plan 2018–2020 on the Integration of Foreigners into Society has been adopted, whose target group also covers beneficiaries of international protection. Successful implementation of the Action plan would contribute to resolving some of the integration challenges for beneficiaries of international protection, however, significant issues such as the provision of various integration services according to individual needs or the adaptation of Lithuanian language lessons according to individual abilities remain unresolved.

The decision of the Government to submit amendments to the Seimas which would enable asylum seekers to find employment in Lithuania has also been a welcomed step forward.⁶ So far, asylum seekers have not been provided with such an option in Lithuania. Amendments to the Law on the Legal Status of Aliens⁷ have entered into force on 1 January 2020, granting asylum seekers the right to work if, within 6 months from the date of submitting the asylum application, the Migration Department has not, through no fault of the asylum seeker, made a decision to grant asylum in the Republic of Lithuania (Art. 71, p. 11).

The matter of employment of asylum seekers is currently of a particular concern due to extremely high backlog of pending asylum applications. According to the data from 1 January 2020, as many as 424 persons were waiting for a decision on their asylum applications (there were 277 pending applications on 1 January 2019).⁸ Access to employment for asylum seekers is crucial to reducing their social exclusion and promoting the sense of belonging to the host society.

Negative societal attitudes towards these individuals could also be identified as one of the challenges for the integration of refugees and asylum seekers. Results of the public opinion polls reveal that Lithuanians are more inclined to see the threats rather than opportunities towards these groups of people. Nevertheless, it should be noted that the number of Lithuanian residents who believe that refugees may increase the crime rate in Lithuania or cause social unrest is decreasing, and there are more and more people who believe that the state should pay more attention to the integration of refugees.⁹

Data from the most recent public opinion study conducted in 2019¹⁰ shows that 27 percent of respondents would not like to live with refugees in the neighbourhood, and 30 percent would not agree

to rent accommodation to refugees. Approximately 15 percent of respondents said they would not want to work with refugees in the same workplace. Such hostility towards refugees makes it difficult to find housing and employment opportunities, as well as integrate these people in the host society. It is assumed that such attitudes are related to the lack of information on refugees and asylum seekers. More than half (52 percent) of surveyed Lithuanian residents said that they had not heard, seen or communicated directly with asylum seekers in Lithuania in the last 12 months, and approximately 40 percent knew about this group of people only from the media.¹¹

The cultural isolation of the Lithuanian society is one of the obstacles to the successful integration of refugees. In order to reduce prejudices and negative attitudes toward beneficiaries of international protection, more attention should be paid to informing the society about the situation of these groups of people, as well as about the challenges they face. At present, there is no consistent awareness raising policy in the country, consequently prevention campaigns are being implemented only through the efforts of NGOs and private initiatives.

As the positive development in this area could be mentioned one of the objectives included into the Action Plan 2018–2020 on the Integration of Foreigners into Society¹² which aims to reduce discrimination against foreigners (Objective 10). One of the measures of this objective is related to the implementation of information campaigns aimed at promoting social tolerance, understanding of diversity and intercultural dialogue (Measure 10.2). It is important to note that the concept of foreigner in the Action Plan includes all non-citizens of the Republic of Lithuania legally residing in the country including beneficiaries of international protection.

Proper representation of asylum seekers and beneficiaries of international protection is also crucial to ensuring their rights. First meetings of the Lithuanian Refugee Forum were initiated at the end of 2019 and it is believed that the establishment of such organization could fill the gaps of representation of beneficiaries of international protection both on local, and on national level.¹³ It is expected that the Lithuanian Refugee Forum will become an organisation that will promote the smooth integration of beneficiaries of international protection, community spirit and mutual assistance, as well as the involvement of refugees in the country's economic, political and social life.

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12

Right to Health

Right to Health

Dainius Pūras, Marija Jakubauskienė

The right to physical and mental health is enshrined in international legal instruments such as the International Covenant on Economic, Social and Cultural Rights¹. This right includes not only the right to accessible and high-quality health care services, but also the right to be free from factors that disrupt health, such as poverty, violence, discrimination, and restriction of health information.

After regaining its independence and establishing democracy, the Republic of Lithuania has achieved a lot in ensuring the right of every citizen to health over the past 30 years. A statutory health care system has been put in place allowing the majority of the population to receive health care services – both general and specialised outpatient and inpatient medical services. Measures are being taken to put in place appropriate prevention mechanisms to combat various health disorders.

Nevertheless, a number of indicators, as well as opinions of the society, signal that the formulation and implementation of health policy decisions often ignore modern principles based on scientific knowledge and human rights, and lack the political will to build a health care system which would avoid historically inherited inequalities and non-transparent solutions.

In this section, we will address social and health inequalities that threaten the sustainability of the health care system. We will also discuss mental health care as a particularly problematic area.

Health Inequalities in Lithuania

The goal of the health care system is to improve the health of the population by ensuring the financing of the health care system, the organisation of services and their provision based on economic, fiscal and political measures.² Lithuania has had a health care system based on a mixed social health insurance model since 1997, which is financed by the Compulsory Health Insurance Fund (CHIF) and the personal funds of the population. The health care system is based on the principles of solidarity, justice, equality, transparency and seeks to ensure universal health care coverage.³ About 8 percent of the Lithuanian population is not insured and can only receive emergency medical services, however, the actual number of uninsured people living in the country is very small, since the absolute majority of them live abroad.⁴

One of the biggest problems of the Lithuanian health care system is dramatic inequalities in health, manifested in differences in health indicators across the population and inequalities in the quality, accessibility, and financing of health care services.

Public health indicators in Lithuania reflect huge health inequalities compared to other European Union (EU) countries, as well as regional differences within the country. Lithuania is one of the fastest-ageing countries in the EU.⁵ In 2018, the average life expectancy (ALE) in Lithuania was 75 years⁶ (EU average – 81 years⁷), however, the difference in ALE between men (70 years) and women (80 years) is 10 years, which is one of the largest differences in ALE between the sexes among the EU countries. The differences in ALE between men and women are largely determined by lifestyle risk factors and a high prevalence of external causes of death among men (suicides, road accidents, violence).

Morbidity and mortality rates in Lithuania are also significantly higher than in other EU countries and directly contribute to ALE inequalities. The standardised avoidable mortality among the Lithuanian population under the age of 75 in the group of men is 298 cases per 100 thousand population, and

in the group of women – 141 cases per 100 thousand population. Avoidable mortality in Lithuania is 3 times higher for men and 2 times higher for women than the EU average, making up approximately 80 percent.⁸ The structure of social determinants of health in Lithuania is also characterised by large inequalities – the GINI coefficient reflecting income inequality reaches 0.37 (0 – complete equality, 1 – complete inequality) in Lithuania and is one of the highest in the European Union.⁹ 28.3 percent of the Lithuanian population is at risk of poverty and social exclusion.¹⁰

The European Commission's 2019 Health Report highlights mental health, extremely high suicide mortality rates, prevalence of tuberculosis and measles outbreaks among the health problems characteristic to Lithuania.¹¹

A subjective assessment of the population health is one of the indicators reflecting the health potential of the population. In Lithuania, only 44 percent of the population rate their health as good and very good, while the EU average is 69.2 percent.¹² Thus, Lithuanians evaluate their health the worst compared to other EU countries, and see doctors more frequently than people living in other countries – in 2018, one resident of Lithuania went to appropriate doctors almost 10 times a year¹³ (compared to 6 doctor's visits in Latvia and Estonia, and 2.8 in Sweden)¹⁴.

The importance of population health and health care in the state policy is reflected in the financing of the health care system. Lithuania's total expenditure on health care is 6.46 percent compared to gross domestic product (GDP) (based on this indicator, Lithuania is currently in sixth place from the bottom among EU member states, and will be pushed to fifth place after Brexit), whereas the EU average is 10 percent.¹⁵ Lithuania's total health care expenditure per capita per year is 1406 euros, reaching only half of the EU average.¹⁶ Expenditure on health care consists of funds allocated by the state and expenses covered by personal funds. In Lithuania, funds allocated by the state consist of 66 percent of the total expenditure on health care, and about 1/3 (33 percent) of expenses are covered by personal funds.¹⁷ This ratio is among the highest in the EU in terms of health care costs covered by personal funds (mainly when buying pharmaceuticals). In other EU countries, this indicator reaches only 15 percent. Financial protection in case of illness in Lithuania is assessed as insufficient, and 9 percent of the population suffers from unbearable health care costs.¹⁸ The greatest burden of health care costs falls on the most vulnerable groups in society – those with the lowest income and the elderly.

Access and Quality of Health Care

The quality of health care services is measured by indicators of effectiveness, patient safety, and patient centredness.¹⁹ In the EU context, the quality of health care services provided in Lithuania is assessed as low, which is partly due to low funding of the health care system and lack of quality control of health care services.²⁰ Patient treatment is often not supported by standardised methods, protocols standardising diagnosis and treatment are lacking, and the competencies of physicians and nurses are not ensured in accordance with the requirements of medical standards. There is a lack of consistency in registering adverse events; patients, even those who experience adverse events, avoid complaining about them, and their complaints in healthcare facilities are not seen as a significant source of information and an indicator of quality.²¹

The health care system lacks a culture of assessment, particularly independent monitoring and analysis of processes, results, and impacts. The effectiveness of health care services is not assessed²².

Access to health care services as an indicator of system performance is assessed better than the quality of these services.²³ However, in recent years, the opinions of Lithuanians regarding access to the services of family doctors and medical specialists has deteriorated, and there was an increase in the number of people with medical problems who do not turn to health care institutions due to excessive queues, or pay out of pocket for health care services instead.²⁴

Actual involvement of patients in decision-making processes is still lacking, since 60 percent of health stakeholder meetings are held without representation of patients' organizations. Patients' opinions and expectations are not considered as significant when improving the organisation of

healthcare services.²⁵ This situation is partly determined by the lack of maturity of civil society, low health literacy of the population, questionable autonomy and independence of patients and their representative organisations, and still prevailing vertical hierarchy of doctor-patient relationships. This makes it challenging to ensure that relationships between health care service recipients, service providers and health care policymakers are based on partnership and cooperation.

Regional disparities regarding access to health care services are dramatic and partly determined by the restructuring of the hospital network and the unequal distribution of health care resources – the number of inpatient beds and the number of doctors and nurses in cities and districts differs 8-10 times (average number of medical doctors in Lithuania is 49.96 per 10 thousand population, in Vilnius – 87.4 per 10 thousand population, and in Kaunas – 126.1 per 10 thousand population). The number of doctors varies between districts and cities about 8 times. The number of nurses in Lithuania is 81.49 per 10 thousand population, in Vilnius – 107.4, and in Kaunas – 132.5. Compared to districts, the number of nurses in cities is 10 times higher.²⁶ The ratio of doctors and nurses in Lithuania is 1:1.8²⁷ and is one of the indicators reflecting the low effectiveness of the health system.

The process of hospital consolidation carried out in Lithuania since 2003 aims to optimise health care services, restructure health care institutions and improve the quality of and accessibility to health care services as well as the overall health of the population.²⁸ Although the number of hospitals and the number of inpatient beds in the country has decreased, the latter remains one of the highest in the EU: the number of inpatient beds (excluding nursing and supportive care beds) in Lithuania in 2018 amounted to 645 per 100 thousand population²⁹, compared to 504 per 100 thousand population in 28 EU countries (in 2017, before Brexit).³⁰ The highest concentration of inpatient beds is in the cities where the country's main hospitals operate. In the largest cities of Lithuania (Vilnius, Kaunas, Klaipėda, Šiauliai and Panevėžys), in 2018, the number of inpatient beds exceeded the Lithuanian average up to 2.5 times (in Vilnius – 910 beds per 100 thousand population, in Kaunas – 1268, in Klaipėda – 1520, in Šiauliai – 1002, and in Panevėžys – 890 beds per 100 thousand population). The number of inpatient beds in cities is 1.5 times higher than in district municipalities.³¹ Inpatient services are more often provided in districts (252 cases per 1 thousand population) than in cities (235 cases per 1 thousand population), thus partially compensating for the lack of outpatient services. In Lithuania, the functioning of an inpatient bed reaches only 80 percent. The highest concentration of inpatient beds is in university clinics, where the number of beds reaches 2 thousand³² which is about 3 times higher than the recommended optimal number of inpatient beds.

In 2018, Lithuania ranked 28th out of 35 countries in the Euro Health Consumer Index and, compared to 2017, rose by three positions. Nevertheless, consumer satisfaction with the health care system in Lithuania is very low. The worst rated areas of health care are as follows: (1) in the area of patient rights and information – access to electronic patient data; (2) in the area of access to health care – access to a family doctor on the same day; (3) in the area of health care effectiveness (health care system effects) – mortality from acute myocardial infarction and stroke within 30 days, cancer survival rates and under-65 mortality; (4) in the area of health care coverage – equity in health care, informal payments to doctors, the number of kidney transplants per million population, and the number of dialysis procedures performed outside the health care facility; (5) the main problems in the area of prevention are the prevalence of hypertension, alcohol consumption and the high number of road deaths among the population; (6) in the area of affordability of medicines – state-reimbursed pharmaceuticals, the use of new oncological medicine, and affordability of medicine for treating arthritis and statins.³³

A new indicator – mental health care has been added to the Euro Health Consumer Index in 2018, which is measured by two indicators: changes in the suicide rate and waiting time for the first appointment with a child psychiatrist. According to these indicators, Lithuania's position is assessed as good, as the suicide rate decreased significantly during the analysed period (1999-2016), and child psychiatrists are available in mental health centres operating at the primary health care level, where a referral from a family doctor is not required. Unfortunately, the assessment does not consider the fact that the development of other necessary services does not take place in the child mental health

system, and therefore their availability and quality in Lithuania are poor. Prevention of corruption is receiving increasing attention in the health care sector as a priority area of the 17th Government Programme.³⁴ Corruption is defined as the abuse of power for self-gain and the complex health care sector is particularly vulnerable to it. The damage of corruption is manifested in growing mistrust among the participants of health care system, poorer health indicators of the population, reduced equal access to health care services, human rights violations, and discrimination. The lack of transparency, participation and accountability in the health care system creates preconditions for corruption.³⁵

The main threats to the transparency of the health care system are the prevailing culture of informal relationships (informal payments, informal relationships in the provision of health care services, information asymmetry between patients and service providers (poor health literacy) and inefficient allocation of health care resources.³⁶ The map of corruption in Lithuania compiled in 2019 revealed that corruption in the health care system remains a relevant problem. Lithuanians consider medical establishments (47 percent of the population) and the Ministry of Health (69 percent of the population) to be the most corrupt institutions, despite the positive changes in time dynamics.³⁷ According to the Eurobarometer survey “Attitudes to Corruption” conducted in the countries of the European Union in 2017, 79 percent of surveyed Lithuanians indicated that bribery and abuse of power for personal gain are still common in the health care system. 12 percent of Lithuanian respondents (4 percent in the EU-28) indicated that they had informally paid or gave gifts to specialists providing health care services in the last 12 months.³⁸ High prevalence of corruption poses a threat of “normalisation” of this phenomenon, limits the state’s commitment to ensure equal rights to health and health care for all, and disrupts the transparency and sustainability of the health system.

Since Lithuania’s accession to the EU, significant investments in the health sector in 2004–2013 amounted to almost 0.5 billion euros (no impact assessments of the EU structural assistance period for 2014–2020 have been performed). An analysis of EU structural support to the health care sector conducted by researchers in 2017 showed that one of the largest investments in health care (423 million euros) came from the EU Structural Funds in 2007–2013, around 36 percent of which went to priority health care services (day centres, outpatient rehabilitation, supportive care, nursing, etc.), 20 percent – to the development of injury and emergency medical services, 18 percent – to the diagnosis and treatment of oncological diseases, 16 percent – to the diagnosis and treatment of cardiovascular diseases, 7 percent – to mental health care, and 1 percent went to public health. The majority – about 80 percent of investments were allocated to infrastructure modernisation. According to the authors, not all investments were implemented after a cost-benefit analysis.³⁹

The discussed challenges that health care system faces are not new, thus reduction of health inequalities is a priority of the ongoing national health policy.⁴⁰ To a large extent, health inequalities are associated with poor public health indicators determined by social (poverty) and lifestyle risk factors (alcohol consumption, smoking, especially among men, and low physical activity), and insufficient access to and quality of health care services. The Ministry of Health, as the main institution implementing the health policy in Lithuania, is changing the health policy directions accordingly, by taking into account the health inequalities of the population, the recommendations of international organisations and the criticism of the National Audit Office. In its Strategic Action Plan for 2019–2021, the Ministry of Health specifies priorities that meet systemic needs – development of outpatient health care and nursing services, restructuring of system infrastructure, creation of efficiency incentives, reduction of the cost of medicines and promotion of healthy lifestyle and prevention.⁴¹ The annual activity plans of the Ministry provide for measures to implement these strategic goals.⁴²

As of 2018, restrictions on alcohol trade came into force in Lithuania and a strict state policy has been implemented in the field of alcohol control and prevention of alcohol consumption. In 2020, the Drug, Tobacco and Alcohol Control Department conducted a population survey, which showed that the majority of Lithuanians felt positive about the restriction of time of alcohol sale and about raising the age limit for buying, owning and consuming alcohol to 20. More than half of the respondents

supported the decision to apply a total ban on alcohol advertising, and 35 percent of respondents indicated that “tightening the regulation of alcohol sale has improved their living environment (less noise from alcohol outlets, safer neighbourhood and improved criminogenic situation)”.⁴³

Positive changes in the health care system and increasing investments provide the health system with new opportunities to address systemic challenges and reduce the still significant health inequalities of the population. The greatest burden of inequality falls on the most vulnerable social groups, therefore the right to health is not guaranteed equally to all Lithuanians.

Mental Health Care System and Its Challenges

The field of mental health in the country has major systemic challenges inherited since the 1990s. In terms of mental health care, many changes have taken place in the world over the past years and decades, encouraging governments and service providers to move away from discriminatory attitudes and excessive medicalisation.⁴⁴ Meanwhile, despite the analysis and recommendations⁴⁵ provided by the non-governmental sector and independent experts, mental health care system in Lithuania is still based on laws, secondary legislation and peculiarities of the services provided, which promote over-treatment with drugs, hospitalisations and institutional care.

Amendments to the Law on Mental Health Care adopted in early 2019 expanded the indications for coercive measures in the mental health care system.⁴⁶ Such trends contradict the recommendations of international organisations and send a message to the public and mental health system participants that the problems of people with mental health problems in Lithuania will be resolved in the future with the application of involuntary hospitalisation and involuntary treatment instead of implementing effective alternatives used worldwide in place of these human rights-violating solutions.

It should be noted that the Mental Health Strategy⁴⁷ approved by the Seimas in 2007 and based on modern principles of human rights and scientific knowledge has not been implemented so far. Although research conducted by experts has revealed that the Lithuanian mental health system needs fundamental, breakthrough changes which would fill the identified gaps with services of new content and forms instead of simply covering them. The period of 2018–2019 continued the tradition of previous governments and health system leaders to ignore systemic changes and make decisions that establish incentives for the existing inefficient mental health system to continue to function and justify itself.

Both the above-mentioned Alternative Plan proposed by the coalition of non-governmental organisations and the research⁴⁸ conducted by VU experts drew the authorities’ attention to the fact that the current mental health care system in Lithuania is inefficient and does not adequately address any of the existing systemic challenges. Particularly significant public mental health problems not addressed using modern methods due to lack of political will have been accumulating year after year in the following areas:

1. Children’s mental health and significant lack of support for children with more complex mental health, behavioural and developmental disorders.
2. Transition from institutional care to community-based service infrastructure for people with psychosocial or intellectual disabilities.
3. Prevention of suicide and other self-destructive and harmful behaviour by eliminating excessive medicalisation and integrating appropriate services into the general health, education, and social security services infrastructure.

Although the number of suicides has decreased in 2018–2019, it remains extremely high in Lithuania. According to other important indicators, such as a very high number of people in permanent institutional care or a very small number of children and adolescents with complex disabilities who have access to high-quality continuous outpatient services, Lithuania still lacks the ambition to adopt the strategies of more developed countries with a more efficient service infrastructure.

The authorities’ refusal to acknowledge the problems long identified by experts and to address them

seriously is surprising. There are two particularly significant problems that should be mentioned. Firstly, there is still no effective infrastructure for community services, mistakenly assuming that such services are provided by mental health centres operating at primary level. Secondly, the historical and geopolitical aspect, inherited 30 years ago, of ignoring the need to develop quality non-pharmaceutical services (psychological, psychotherapeutic, and psychosocial) has not yet been addressed. That is why many children and adults still do not have access to the services they need. This large gap is being compensated with excessive hospitalisations, institutional care as well as excessive medication-based treatment which cause even more damage and violate human rights.

Since politicians responsible for the health care system refuse to acknowledge that the Lithuanian mental health care system needs not only adequate funding, but also fundamental changes in infrastructure and incentives for quality services, the circle of ineffective services and investments continues. And there were no changes in 2018-2019. The mental health care system does not meet the basic needs of people, does not ensure qualitative continuous outpatient services, and is basically limited to medication-based outpatient and inpatient treatment. Such one-sided support does not solve the accumulating problems, thus the number of people placed in permanent institutional care remains high, suicides rates are also high, and there is significant dissatisfaction with the existing support system among those members of the society who suffer from mental health problems themselves or whose family members require appropriate mental health care.

For example, a major breakthrough in the development of quality services and the reduction of inequalities by curbing entrenched discriminatory attitudes towards people with autism spectrum disorders has been long overdue. Unfortunately, the possibility of such a breakthrough was not used in the Autism Plan approved by three ministers in 2019.⁴⁹ It is not clear from this plan whether the development of quality services for children and adults affected by more severe forms of autism spectrum disorders will finally commence and how these services will be funded.

For many years, a breakthrough in the health system has been expected in the provision of services to children with mental health and behavioural disorders. The standards of support provided to children differ from the support provided to adults, since children need a particularly large and diverse range of non-pharmaceutical services at the secondary level instead of the primary level. Therefore, for a number of years now, independent experts have been recommending the development of continuous non-pharmaceutical and outpatient services for children and adolescents with mental health and behavioural disorders, so that they could finally receive quality support without the excessive use of medication-based treatment and hospitalisations. Unfortunately, the long-awaited order of the Minister of Health, which was drafted in 2019,⁵⁰ consolidated the existing inefficient service infrastructure and did not create any incentives for the development of new, much-needed high quality services.

In summary, the sustainability of the Lithuanian health care system remains threatened by excessive inequalities and a lax approach to modern principles of health sciences and human rights. Some areas of health care have historically been developed as a matter of priority, while the development of others is constantly being postponed. This leads to a situation where the entire groups of people are discriminated against if their health problems are not considered “prestigious” or worth investing in. This section of the overview draws particular attention to the refusal of politicians responsible for the health system to acknowledge the significant gaps in the provision of services to children and adults with mental health, behavioural and developmental disorders. There is no incentive to develop much-needed continuing non-pharmaceutical services, thus the rights of patients are still being violated since they do not have access to quality services or are re-hospitalised and provided with outpatient medication-based treatment, even if they often do not need it. This way, the provision of the surplus services violates the “first, do no harm” principle and may even harm the physical and mental health of patients.

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