

To:

Clare Ovey

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**SUBMISSION TO THE COMMITTEE OF MINISTERS OF THE COUNCIL OF
EUROPE IN THE CASE ANCIENT BALTIC RELIGIOUS ASSOCIATION
“ROMUVA” V. LITHUANIA (APPLICATION NO. 48329/19)¹**

Dear, M^{me} Ovey

Please find enclosed a briefing submitted under Rule 9.2 of the Rules of the Committee of Ministers for supervising the execution of the ECtHR judgements with the view of assisting in the evaluation of the general measures proposed by the Lithuanian Government in the case of Ancient Baltic Religious Association “Romuva” v. Lithuania. This submission has been developed in response to the updated action plan for the execution of the judgement submitted to the Department for the Execution of Judgements by the Agent of the Government of the Republic of Lithuania on 15 May 2023.

SUMMARY

- Individual measures in Ancient Baltic Religious Association “Romuva” v. Lithuania have not yet been implemented.
- Legal amendments regarding State recognition of other religious communities and its cancellation have been adopted, which remain lacking safeguards to protect the right to an effective judicial remedy.
- In newly adopted law there is a lack of specificity in defining what the condition for the state recognition "has support in society" means.

RECOMMENDATIONS TO THE COMMITTEE OF MINISTERS:

- Start the legislative procedure to establish comprehensive and enforceable internal legal defence measures that prioritise accessibility.
- Modify Article 6 to clearly outline the necessary expressions of societal support.

¹ <https://hudoc.exec.coe.int/eng?i=004-58447>

I. INTRODUCTION

This submission is based on Rule 9.2 of the Rules of the Committee of Ministers for the supervision of the execution of judgements and in response to the action plan on the execution of the judgement in the case Ancient Baltic Religious Association “Romuva” v. Lithuania (Application No. 48329/19, 8 September 2021) submitted by the Agent of the Government of the Republic of Lithuania before the European Court of Human Rights (hereinafter - the Government Agent) on 15 May 2023².

This NGO submission is compiled by Human Rights Monitoring Institute (hereinafter - **HRMI**).

The **Human Rights Monitoring Institute** (HRMI)³ is a Lithuania-based non-governmental, not-for-profit human rights organisation. Since its establishment in 2003, HRMI has been advocating for full compliance of national laws and policies with international human rights obligations and working to ensure that rights are effective in practice.

This document was submitted with the view of discussing the recent developments in terms of non-recognition as a religious association of a non-traditional (pagan) association and lack of domestic remedies.

II. CASE SUMMARY

The case concerns the Seimas (the Parliament) denial of State recognition in 2019 of a non-traditional (pagan) religious association without sufficient and clear reasons and a lack of domestic remedies thereof (a violation of Article 14 of the Convention read in conjunction with Article 9, a violation of Article 13 of the Convention). The Ministry of Justice concluded that the applicant association corresponds to those seeking state recognition criteria set for religious communities, nonetheless, the Seimas adopted an adverse decision without clear arguments, which prevented religious association from accomplishing State recognition.

III. RELEVANT DEVELOPMENTS AND GENERAL MEASURES

On the legislative measures entrenching new safeguards to prevent violation of Article 13 of the Convention

² https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680ab444c

³ <https://hrmi.lt/en/>

In newly adopted Article 6⁴ of the Law on Religious Communities and Associations, it is stated that even if the Ministry of Justice has issued a favourable conclusion to a religious association and the Seimas' draft resolution to grant a religious association State recognition has been drafted, but the Seimas still has disapproved the drafted resolution, the issue of State recognition should be considered in the Seimas repeatedly until the relevant Seimas' resolution is adopted. Indicating that the Seimas will be obliged either to vote repeatedly until the draft resolution is adopted or to prepare and vote on an alternative draft resolution as regards a refusal to grant State recognition and to specify the grounds and justification of a negative decision and clarification of what criteria set forth in the Law on Religious Communities and Associations Ancient Baltic religious association "Romuva" fails to meet.

To add, in the event of the Seimas' refusal to grant a religious association State recognition the new wording of Article 6 of the Law on Religious Communities and Associations provides the right to resubmit a request to be granted State recognition following two years (instead of ten years) since the day Seimas' resolution to refuse enters into force.

In the case of Metropolitan Church of Bessarabia and Others v. Moldova⁵, 2001 (see §§ 137-139), the Court found a violation of Article 13 in the light of Article 9 concerning the lack of an effective remedy against a refusal by the authorities to officially recognize a

⁴ Article 6. State recognition of other religious associations and its revocation (valid from 1 May 2023)

Other (non-traditional) religious associations may be recognised as a part of Lithuania's historical, spiritual, and social heritage, if they have support in the society and their teaching and practices do not contravene the law or public morals. The granting of State recognition to a religious association means that the State supports its spiritual, cultural, and social heritage.

The decision to grant State recognition or to refuse to grant State recognition is adopted by the Seimas of the Republic of Lithuania. A religious association may request to be granted State recognition twenty-five years after its or its communities initial registration in Lithuania. The initial registration is considered to have taken place if a religious association or religious communities, belong to it, have acted legally (were registered) in Lithuania after 16 February 1918.

A religious association, which applies to the Seimas to be granted State recognition, provides a copy of the application to the Ministry of Justice of the Republic of Lithuania. The Ministry of Justice during 6 months since the day it has received information about the application of the religious association provides the Seimas with the Conclusion issued in compliance with the order of the Minister of Justice as regards the compliance of the religious association to the requirements (hereinafter – the Conclusion of the Ministry of Justice) set forth in the law and sends a copy of it to the religious association. A deadline to the submission of the Conclusion of the Ministry of Justice can be extended for not longer than 6 months by a grounded decision of the Minister of Justice.

The issue whether to grant State recognition shall be solved by the Seimas resolution during 3 months since the day Conclusion of the Ministry of Justice has been received. Time lapse between the Seimas' sessions is excluded. Having acquainted with the Conclusion of the Ministry of Justice a religious association has the right to provide the Seimas with its written submissions and to present them during the considerations of the Seimas' draft resolution. In case the Seimas refuses to approve the Seimas' draft resolution, the issue whether to grant State recognition shall be considered by the Seimas repeatedly until a relevant Seimas's resolution is adopted.

The Seimas's resolution not to grant religious association with the State recognition shall indicate the ground (grounds) and motives of such a decision, why a religious association has no support in the society and why its teaching or practices contravene the law or public morals. If the Seimas refuses to grant State recognition to a religious association, a new request may be lodged after two years since the day such Seimas' resolution entered into force.

The State recognition granted to a religious association in compliance with the order set forth in this law can be revoked in case the Seimas having received the conclusion of the Ministry of Justice submitted under the request of the Seimas or on the initiative of the Ministry of Justice decides that the religious association does not meet the criteria of State recognition – has no support in the society, its teaching and practices are in breach to the law or public morals. The resolution of the Seimas as regards the revocation of the State recognition shall indicate the ground (grounds) and motives of such a decision. A request of a religious association the state recognition of which has been revoked can repeatedly apply to the Seimas to be granted State recognition after five years since the day the State recognition was revoked if the grounds of the revocation seized to exist.

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<https://hudoc.echr.coe.int/app/conversion/docx/?library=ECHR&id=001-59985&filename=CASE%20OF%20METROPOLITAN%20CHURCH%20OF%20BESSARABIA%20AND%20OTHERS%20v.%20MOLDOVA.docx&logEvent=False>

Church. The Court reiterates that the effect of Article 13 is to require the provision of a domestic remedy allowing the competent national authority both to deal with the substance of the relevant Convention complaint and to grant appropriate relief, although the Contracting States are afforded some discretion as to the manner in which they comply with their obligations under this provision (see *Chahal v. the United Kingdom*, the judgement of 15 November 1996, Reports 1996-V, pp. 1869-70, § 145). The remedy required by Article 13 must be “effective”, both in practice and in law.

In view of this interpretation of Article 13, it can be said that new legislation provisions fail to meet the requirements of being effective both in practice and in law. The set deadline after which state recognition can be requested again is not an effective measure that would help solve the lack of effective internal legal defence. The conditions that led to the decision of the Seimas unfavourable to the religious community may change sooner than two years or later than two years, and in certain cases the decision may turn out to be unfounded in relation to the religious community, but there is still no effective mechanism to challenge them.

This newly established mechanism does not fully resolve the lack of effective internal legal defence measures due to the problem of the appealed decision of the Seimas. The problem remains - there is no clearly established possibility to appeal the decision of the Seimas to refuse to grant state recognition, only the deadline establishing the right to submit a new application after 2 years instead of 10 is shortened.

As the Court pointed out that the Supreme Administrative Court of Lithuania clearly stated that according to the principle of separation of powers, administrative courts do not hear all cases, but only those that fall within their strictly defined competence and emphasised that administrative courts do not hear complaints about decisions made by the Seimas, related to the exercise of state power, nor can these courts refer such cases to the Constitutional Court. Furthermore, the Court observes that the law of the Constitutional Court does not establish the possibility of an individual complaint in cases that do not fall under the competence of other courts and for which there are no other measures, and the Government did not provide examples of court practice that could prove otherwise.

On the lack of definition/detail of specific grounds

Seimas in compliance with the new wording of Article 6⁶ of the Law on Religious Communities and Associations shall be obliged either to vote repeatedly until the draft resolution is adopted or to prepare an alternative draft resolution as regards a refusal to grant State recognition and to specify the grounds and justification of a negative decision and clarification what criteria set forth in the Law on Religious Communities and Associations Ancient Baltic religious association “Romuva” fails to meet, i.e. whether it lacks support in the society, or whether their teaching and practices are in conflict with the law and public morals.

⁶ Ibid, 4.

It is indeed praiseworthy that the recently introduced action plan and revised regulations have considered the necessity for the Seimas to present substantial reasoning and justifications when making an unfavourable determination regarding a religious association. This provision ensures transparency and fairness in the decision-making process, allowing for a clear understanding of the factors that led to such an outcome. By requiring explicit arguments and grounds to be provided, the authorities demonstrate their commitment to upholding the principles of due process and accountability. Such a measure contributes to the promotion of an environment where religious associations can operate with a sense of security and trust, knowing that any decisions made concerning their status will be based on sound reasoning and factual considerations.

However, the condition established in paragraph 1 of Article 43⁷ of the Constitution that other churches and religious organisations must "have support in society" is vague and lacks substance. The Constitutional Court has established that the mentioned condition means that the support of the relevant church or religious organisation in society must be strong and long-term, so it cannot be limited to a small group of people or a small part of society, several decades of activity, one or several generations of people. The mentioned support of the relevant church, and religious organisation in the society must be such that no doubts arise about it. It is stipulated that religious communities cannot be limited to a small group of people or a small part of society, but it is not established precisely what number of persons ensures that a religious community has support in society.

The Ministry of Justice noticed that "Romuva" is the largest non-traditional religious community in Lithuania, in 2011. According to the national census, over 5,000 people identified themselves as of the "Baltic faith," and since 2001 until 2011 followers quadrupled. It is the sixth religious movement in Lithuania in terms of the number of believers, outnumbering even some traditional religious communities. The support of the applicant community in society was reflected in statistical data.

However, instances have arisen wherein state recognition has been extended to communities with notably smaller groups of members, thus making it unclear what is the precise implications of public support.

IV. Conclusions and Recommendations for the Government regarding the execution of the ECtHR decision in the case Ancient Baltic Religious Association "Romuva" v. Lithuania

Despite developments, a satisfactory execution of the Ancient Baltic Religious Association "Romuva" v. Lithuania judgement fulfilling effective internal legal defence requirements and concise conditions for State recognition is still lacking.

⁷ <https://www.lrs.lt/home/Konstitucija/Constitution.htm>

Meanwhile the Committee of Ministers is kindly requested to ask the Lithuanian authorities to take the following measures to ensure the appropriate execution of the decision in the Ancient Baltic Religious Association “Romuva” v. Lithuania judgement:

1. As a matter of priority, initiate the legislative process to adopt accessible internal legal defence safeguards that would be effective both in practice and in law.
2. Define in the adjusted Article 6 how support should be manifested in society.

Director
Dainius Pūras