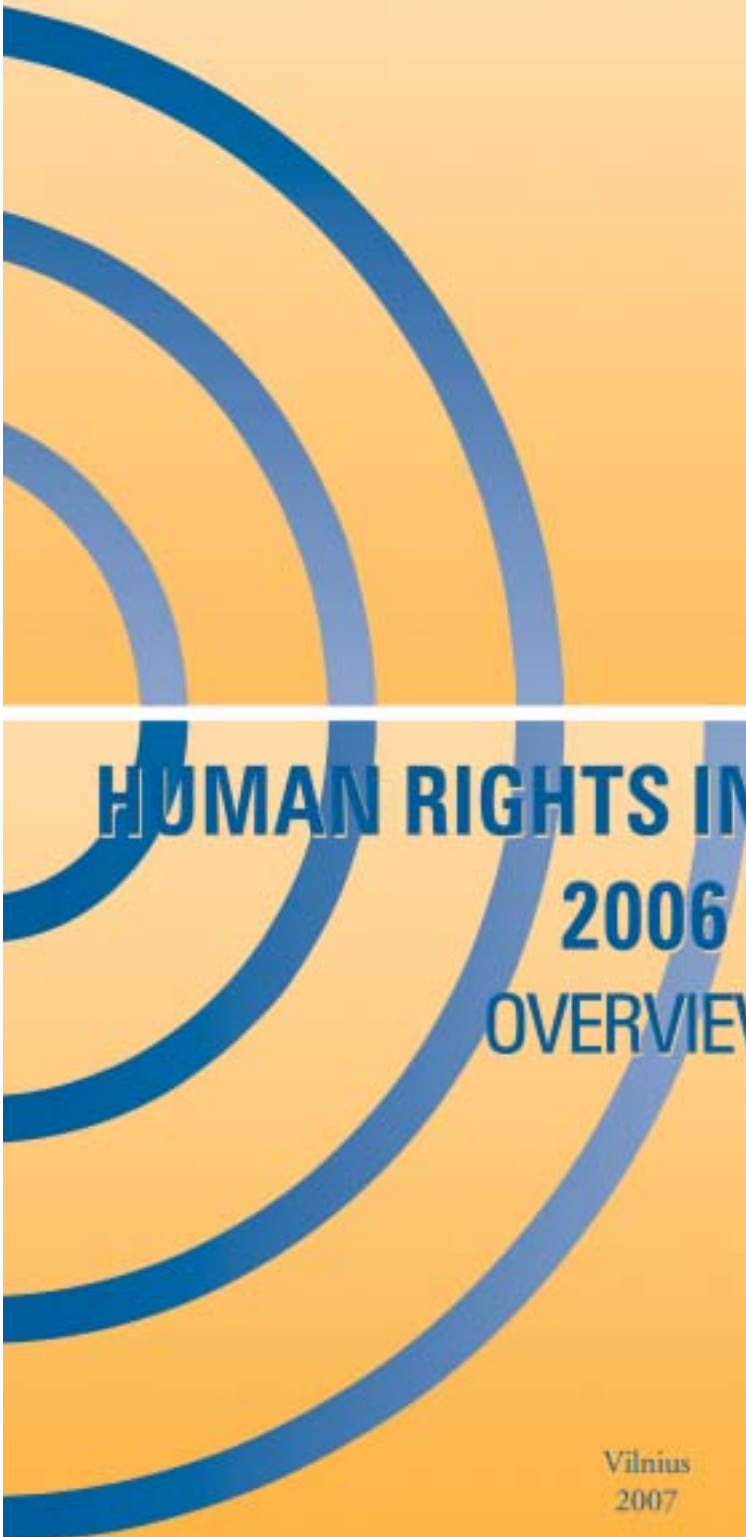


HUMAN RIGHTS MONITORING INSTITUTE



**HUMAN RIGHTS IN LITHUANIA**  
**2006**  
**OVERVIEW**

Vilnius  
2007



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# **HUMAN RIGHTS IN LITHUANIA 2006**

OVERVIEW

Vilnius  
2007

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## ABOUT HRMI

**The Human Rights Monitoring Institute (HRMI)**, founded in 2003, is an independent organisation representing the interests of civil society. It seeks to promote the development of an open, democratic society in Lithuania through the consolidation of human rights.

### Strategic Goals:

- A self-sustainable mechanism for independent civil society monitoring of government human rights policies, legislation, programmes and services.
- Sustained, open human rights dialogue in the political agenda.
- Government accountability in human rights protection.
- Enhanced public awareness of the causes and consequences of human rights violations.
- Legislative and policy enhancements dedicated to promoting human dignity and human rights.
- Civic initiatives fostering a culture of human rights.

HRMI combines monitoring, advocacy and strategic litigation to achieve

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

## FORWARD

The Constitution of the Republic of Lithuania guarantees a wide spectrum of civil, political, social, economic and cultural rights that protect human dignity, secure for every Lithuanian freedom, security and equal opportunities for personal development. Seeking to implement those constitutional goals, Lithuania became a party to various human rights treaties, adopted various legislative acts and created a number of institutions for this purpose.

Despite those efforts, a majority of Lithuanians feel insecure. They are afraid to speak their minds. They sense injustices abound. They distrust state institutions. An opinion poll conducted in 2006 showed that three-fourths of the respondents believed their rights had been violated. Yet 75% among them had not attempted to seek a remedy to these violations, having no faith in the effectiveness of state institutions. The high level of migration has been conditioned not only by economic motives, but also by the ineffective enforcement of human rights.

During 17 years of independence, human rights enhancement and protection were never a rational State

policy, but rather a side result of more important political goals. Many concrete measures advancing protection of human rights (enactment of legislative acts, ratification of international agreements, and establishment of institutions) were often adopted due to pressure from international institutions to which membership was being sought. This did not aid the creation of a culture respectful of human rights; rather the process resulted in inconsistent policies and solutions, as is exemplified by the defective institutional infrastructure for the protection of human rights. The only positive exception was the implementation of the national human rights plan in 2002–2005, which was initiated not by the state but by the United Nations Development Programme (UNDP). Regretfully, the project was not extended.

Many politicians and state officials should realise that modern Lithuanian statehood is based upon the respect for human rights. In the long run, this foundation is undermined by the inaction and, moreover, manipulation of human rights for political interests. In the last few years, some politicians have expressed their concern for human rights in attempts to defeat their critics, to avoid legal responsibility, and to eliminate political rivals.

The need to establish a national human rights institution within the meaning of the *Paris Principles* adopted within the United Nations system has been discussed without tangible results. Ignored by state institutions, in 2006 the issue received attention from the international community. Having examined Lithuanian report on the implementation of the *International Convention on the Elimination of all Forms of Racial Discrimination*, the UN Committee on the Elimination of Racial Discrimination (CERD) urged Lithuania to consider the establishment of an independent national human rights institution.

The Human Rights Monitoring Institute supports the idea of the establishment of a national human rights institution in Lithuania. The main tasks of the institution should include monitoring, analysis, identification of human rights problems and priorities, offering solutions, education, and coordination among the different state, European, and international institutions.

This overview is the end result of an effort to perform one of those tasks – regular analysis of the human rights situation. Entry into the European Union resulted in the withdrawal of an important political leverage tool – European Commission monitoring and publication of Regular Reports on

state compliance with Copenhagen political criteria. Since 2003, Human Rights Monitoring Institute has continuously filled the gap in anticipation that soon this task will be assumed by a national human rights institution.

To wit, regular reporting enables understand of the dynamics of change in examining which problems have been resolved, and which ones should receive more attention. To this end, a number of States prepare annual human rights reports. They assist in the formulation of a consistent national human rights policy.

The fourth human rights overview by HRMI is based on in-house research, reports by non-governmental and international institutions, media monitoring and consultations with experts. The overview has been prepared by a working group: Klementina Gečaitė, Margarita Jankauskaitė, Agnė Kurutytė, Tadas Leončikas, Asta Radvilaitė, Eglė Samuchovaitė, Rokas Uscila, Jolanta Samuolytė and Henrikas Mickevičius. Among institutions, we would especially like to thank the Centre for Ethnic Studies of the Institute for Social Research, which contributed greatly to the preparation of this overview.

We are grateful for the contributions from individual experts and institutions and we hope that this overview

will serve as a useful source of information, as well as encourage thought-provoking discussions. We welcome comments and suggestions regarding the content herein.

*Kęstutis Čilinskas*  
Chairman of the Board

*Henrikas Mickevičius*  
Executive Director

## EXECUTIVE SUMMARY

This Overview presents an assessment of civil and political rights implementation in Lithuania in 2006. Among the rights reviewed are the right to respect for private life; freedom of expression; right to a fair trial; and protection from discrimination, racism, anti-Semitism and other forms of intolerance. Reviewed separately, within the context of human rights, is the situation of vulnerable groups of society, such as women, children, persons with physical and mental disabilities, prisoners and victims of crimes.

In 2006, the **right to private life** was negatively affected by the persistent gaps in the regulation of covert intelligence operations, insufficient security of classified information, inappropriate composition and usage of personal identification numbers, public expansion of video surveillance systems without proper legal safeguards, injudicious introduction of biometric documents, and increasing corporate surveillance of electronic workstations. The absence of an independent data protection agency compounds the consequences of violations found in those areas.

Events of 2006 revealed that the core meaning of the **right to freedom of expression** is not yet fully understood by state officials, mass media and so-



ciety, in general. Politicians attempted suppression of criticism from political opponents and citizens by referring alleged infringements of human rights to the courts and law enforcement institutions. Mass media publicised commissioned articles without citing the source of the commission, thereby disseminating misleading information. The right to peaceful assembly was disproportionately restricted. Conditions concerning strikes and similar forms of protest remain problematic.

The events of 2006 have shown that courts often violate guarantees to a **fair trial**. Pre-trial investigations in criminal cases are conducted unprofessionally. Yet there has been no political will for fundamental reforms. On the contrary, politicians displayed an old-fashioned approach towards the courts, disrespect for the decisions of international courts, and delayed the implementation of reforms necessary to improve protection of citizens' rights. The right to fair trial is believed most vulnerable among civil and political liberties.

In 2006 cases of **discrimination, racism, anti-Semitism and other forms of intolerance** continued. Discrimination reflected negative stereotypes and intolerance toward different racial, ethnic, religious and social groups. Roma remain one of the most adversely-affected ethnic groups. Rising intolerance was noted toward Muslims and

refugees. The reaction of the state institutions is vague, and investigations into cases of discrimination and hatred are mainly ineffective.

Protection of **women's rights** encountered constraints in the areas of access to work and support programmes. Their economic leverage weakened. Insufficient measures were undertaken to address sexual harassment problem, exploitation of women, human trafficking, domestic violence, discrimination based on marital status, and difficulties faced by combining work and family.

In 2006 key problems in the area of **children's rights** concerned violence against children in families and state institutions, inaccessibility of psychological assistance, inadequate protection for children with development disabilities, and issues related to guardianship and adoption.

Public spaces are not adequately adapted for the needs of **the disabled**, and their right to work is not secured. Problems related to legal incapacitation, among them insufficient legal assistance, remain unresolved. Individuals with light mental disorders cannot benefit from privileges afforded by the status of limited incapacitation. Supervision and responsibility of appointed guardians is insufficiently ensured.

In law enforcement, most challenges from previous years remained unresolved. These include unsatisfactory conditions in police detention facilities, improper work conditions, unprofessional police behaviour, disproportionate use of physical force, abuse of power, and unethical behaviour. The right to life is guaranteed inadequately.

As in the previous years, **rights of prisoners** remained encountered challenge in ensuring employment, proper rehabilitation and recidivist service provision, and inadequate measures for integration into society upon completion of the sentence. Unacceptable detention conditions prevailed: insufficient protection from torture, inhuman and degrading treatment; and overcrowding. Infringements on the right to private life were recorded.

In 2006, changes introduced failed to improve the situation of **crime victims** substantially. Among the prevailing challenges: the refusal of officials to initiate pre-trial investigations, ineffective compensation and provisions for state-guaranteed legal assistance.

### 1. Right to Private Life

In 2006, Human Rights Monitoring Institute documented persistent gaps in the regulation of covert intelligence operations, insufficient security of classified information, inappropriate composition and usage of personal identification numbers, public expansion of video surveillance systems without proper legal safeguards, injudicious introduction of biometric documents, and increasing corporate surveillance of electronic workstations. The absence of an independent data protection agency compounds the consequences of violations found in those areas.

#### *Legal gaps in regulation of covert intelligence operations*

*The Law on Operational Activities*<sup>1</sup> does not adequately protect the right to private life. It does not include a principle of proportionality that requires assessment of the reasonable relationship between the means employed to collect information and the aim sought to be achieved.

The law lacks precise definitions of who can be subjected to surveillance and under what circumstances. The expression “[and] other persons and events related to the national security”<sup>2</sup> is open-ended and leaves room for

misuse. Within this understanding, a person preparing a peaceful demonstration may be assumed as relevant to national security where that demonstration protests State means chosen to fight terrorism. Individuals or organisations, therefore, may be subjected to intelligence operations for their exercise of civil and political rights. The European Court of Human Rights has established that the list of subjects who may be subjected to covert intelligence operations should be exhaustive; wherein States must set limits on circumstances in which state interests supersedes constitutionally-protected civil and political liberties.

Courts tend to issue warrants for surveillance without proper scrutiny. In 2006 the Commission for Parliamentary Scrutiny of Intelligence Operations stated that courts sanctioned surveillance without careful consideration of context and consequence.<sup>3</sup> The statement was, in part, based on data received from different state institutions. The Lithuanian Customs office informed that in 2004–2006, courts issued warrants for secret checks of two mailed and posted documents; the use of special technical equipment was allowed in 604 cases and telephone tapping in 217 instances. Only once, during the period of 2004–2006, did courts refuse to sanction a request for surveillance. Human Rights Monitoring Institute supports judicial review based on pro-

portionate consideration given to all parties in the case and balanced against the societal context in which the case occurred.

### *Insufficient safety of classified information*

The security of information gathered through intelligence remains problematic. As in 2005, there were instances when classified information was leaked and publicised without repercussion.

In 2006, the State Security Department (SSD) detained an editor of a newspaper for attempting to publish an article based on classified information. Although it was known that the intelligence information had been leaked, the negative consequences affected only the editor: he was arrested and the newspaper edition was confiscated. The SSD director publicly stated that an intensive investigation was carried out to identify the responsible persons<sup>4</sup>; however, in May 2006, responsible persons remained unidentified.

To secure better protection of classified information, Human Rights Monitoring Institute supports a more effective application of existing legal norms regarding the initiation of pre-trial investigations and punishment of guilty persons. In addition, the

law should define clear and precise safety rules, as well as foresee effective, proportionate and dissuasive sanctions.

### *Composition and usage of personal identification numbers*

Considering a common practice of redundant requirement to disclose personal identification number, *the Law on Legal Protection of Personal Data* should include a rule of disclosure within the authenticity needs, meaning that information disclosed should be proportionate to the sought goal. For example, in one case it may be enough to disclose a name of the person, in another – the name, surname and date of birth; only in exceptional cases should a personal ID be revealed.

The *Law on Population Registry* regulating the composition of the personal identification number allows revealing sensitive personal information – gender and a date of birth. It should be substituted for the composition of the personal ID from randomly selected numbers. Taking into consideration the economic costs involved, the new order of composition of personal ID number could be introduced gradually – it could be applied during the time of obligatory change of passports or when obtaining one for the first time.

### *Expansion of video surveillance systems without proper legal safeguards*

There is no legal act that regulates directly and in detail the use of video surveillance systems. Nevertheless, in the absence of adequate legal safeguards, in 2006 there was a noticeable increase in the installation of video surveillance systems in a number of cities. By the end of the year, more than 200 cameras swept the streets of Vilnius.<sup>5</sup> A growing number of video cameras are being installed in Kaunas, Klaipėda and Panevėžys, with more being planned for Šiauliai and Kėdainiai.<sup>6</sup> The establishment and maintenance of video surveillance systems is expensive and without proven benefits. The Vilnius municipality plans to allocate each year 2 million Litas (579.710 €) for the maintenance of the system.<sup>7</sup> In Kaunas, municipal authorities plan to spend each month nearly 50.000 Litas (14.493 €) for similar purposes.<sup>8</sup> Such systems were introduced without a cost-benefit analysis, and therefore, claims concerning the usefulness and effectiveness of video surveillance systems remain questionable.

HRMI drew public attention to the need to inform the society about monitoring video cameras; however promises to take necessary steps have yet to be fulfilled. At the end of 2005, Vilnius Police Department informed

the State Data Protection Agency that it will place warning signs about the monitoring video cameras by January 2007. At the time of this writing, the warning signs are not installed.

### *Injudicious introduction of biometric documents*

In 2006, the Parliament (*Seimas*) amended *Laws on Regular Passport*<sup>9</sup>, *Official Passport*<sup>10</sup> and *Population Registry*<sup>11</sup> which introduced the use of biometric data (digital images of the face and fingerprints) in passports, along with storage of this data in the population register. The EU Regulation regulating personal biometric data and its storage does not require storage of data at state registries. The Lithuanian initiative, introduced in the name of complying with the EU requirements, unnecessarily endangers security of personal biometric data; there were no convincing arguments provided for why it is necessary to collect this data in one location.

The Human Rights Monitoring Institute urged members of the Parliament while voting for the amendments of the law to take into consideration the following. Storage of biometric data in one centralised state database may place at risk the safety of stored information and inadvertently facilitate its leak.<sup>12</sup> The Institute made a public

announcement opposing the information storage in the state centralised registry, however, the amendments were adopted and parliamentarians' discussion was limited only to the costs incurred in applying the new technology.

The general public, on the other hand, was not sufficiently informed about the advantages and disadvantages of the introduction of biometric documentation. Sometimes information provided for the public lacked impartiality and resembled more a public relations campaign or advertising, portraying the adoption of biometric passports as an attractive innovation, increasing the security of society<sup>13</sup>, but indicating nothing about the consequences for the private lives of citizens.

### *Increasing surveillance of electronic workstations*

There has been a further spread of electronic surveillance in the workplace.<sup>14</sup> With special software installation, employers may gain access to employees' electronic correspondence and track the activity of employees on the internet. Although such software usage has become increasingly popular among private business enterprises, there is no set legal framework regulating electronic surveillance in the workplace.<sup>15</sup> Trade unions do not express concern about the matter.

It is necessary to take into consideration the legitimate expectations of the employer and the rights of employees. Considering that a person does not lose his right to respect for privacy in the workplace, the employer should always inform employees about the electronic surveillance in advance, explain its purpose and obtain the employee's agreement. The law should further specify the situations and conditions for electronic surveillance – and foresee dissuasive and effective sanctions for misuse. Appropriate legal regulation covering the obligations of employers should be adopted immediately to prevent misuse of electronic surveillance in the workplace.

### *Absence of independent data protection agency*

The experience of other states shows that establishment of an independent data protection agency considerably increases the security of personal information. The importance of the establishment of such an agency is emphasised in the EU *Charter of Fundamental Rights*, which states that an observance of the rules for data protection should be controlled by independent agency.

In Lithuania, such an agency has yet to be established. The present agency in charge of data protection, the State

Data Protection Inspectorate is part of the executive branch. It is the executive that commonly initiates limitations on private life.

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<sup>1</sup> *Law on Operational Activities 1997*. Nr. VIII-222, Vilnius: Seimas. Amended by Nr. IX-102 of 20 December 2000. Available from: [http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc\\_l?p\\_id=123795](http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=123795) (in English) [Unless otherwise noted, all citations herein current through May 2007].

<sup>2</sup> *Ibid*, 2002, Nr. IX-965. Amended by Nr. IX-1563 of 20 May 2003, Vilnius: Seimas. Article 3, para. 2 states: “‘Targets of operational activities’ shall mean the criminal acts being planned, being or having been committed, the persons committing or having committed the criminal acts, active actions of these persons in neutralising operational activities or infiltrating members of criminal structures in law enforcement, national defence or other state government and administration institutions, and activities of foreign special services, as well as other persons and events related to state security.” Available from: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=268198](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=268198).

<sup>3</sup> *BNS*, 23 June 2006. “Special Services Spy on Thousands, but Trace Tens”. Available from: <http://www.bernardinai.lt/index.php?url=articles/49997>.

<sup>4</sup> *BNS*, 19 September 2006. “Parliament Receives Secret SIS Document, Causes Scandal”. Available from: <http://www.delfi.lt/news/daily/lithuania/article.php?id=10730616>.

<sup>5</sup> *Omni* (online), 21 November 2006. “Big Brother Watches in Vilnius”.

<sup>6</sup> *lrytas.lt* (online), 18 October 2006. “Video Surveillance System Installed in Kaunas”. Available from: <http://lrytas.lt/?id=11611745231159255183&view=4>.

Kubiliūtė, Gina. 12 April 2006. “Secret Cameras Protect Klaipėda Park from Vandals”. *Klaipėda*. Available from: <http://www.delfi.lt/archive/article.php?id=9292911&categoryID=5995&ndate=1144789200>.

*Delfi* (online), 11 April 2006. “In Panevėžys Places for Video Camera Installation Selected”. Available from: <http://www.delfi.lt/archive/article.php?id=9280896>.

*vtv.lt* (online), 13 February 2006. “11 Video Cameras Installed in Panevėžys”. Available from: <http://www.vtv.lt/content/view/15105/345>.

<sup>7</sup> *Delfi* (online), 6 December 2006. “Video Surveillance System Networks Extended in Vilnius”.

<sup>8</sup> *lrytas.lt* (online), 7 February 2006. “Video Surveillance System Installed in Kaunas”. Available from: <http://lrytas.lt/?id=11611745231159255183&view=4>.

<sup>9</sup> *Law on Regular Passports 2006*. Nr. X-705, Vilnius: Seimas. Available from: [http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc\\_l?p\\_id=279763](http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=279763).

<sup>10</sup> *Law on Use of Official Passports 2006*. Nr. X-706, Vilnius: Seimas. Available from: [http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc\\_l?p\\_id=279764](http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=279764).

<sup>11</sup> *Law on the Population Registry 2006*. Nr. X-623, Vilnius: Seimas. Available from: [http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc\\_l?p\\_id=277499](http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=277499).

<sup>12</sup> Mickevičius, Henrikas. 26 January 2006. “In-depth Discussion Needed for Planned Usage of Biometric Data”. Vilnius: HRMI.

Available from: <http://www.hrmi.lt/news.php?strid=1999&id=3455>.

<sup>13</sup> *Delfi* (online), 28 August 2006. “New Passports Issued With Digital Pictures”. Available from: <http://www.delfi.lt/archive/article.php?id=10507177>.

<sup>14</sup> *Lietuvos Rytas*, 10 July 2006. “Lithuanian Enterprises Increasingly Censor Electronic Correspondence of Employees” (Editorial). Available from: <http://www.itpaslaugos.lt/lt/spauda/?id=36>.

<sup>15</sup> Lebedeva, Valerija. 13 November 2006. “Control Over Electronic Workplace Not Legally Regulated”. *Vakarų ekspresas*.

## 2. Freedom of Expression and Assembly

Events of 2006 revealed that the core meaning of the right to freedom of expression is not yet fully understood by state officials, mass media and society, in general. Human Rights Monitoring Institute documented attempts by politicians to suppress criticism of political opponents and citizens whereby alleged infringements of human rights were referred to the courts and law enforcement institutions. Mass media publicised commissioned articles without citing sources, thus, providing misleading information to society. The right to peaceful assembly was disproportionately restricted. Conditions concerning strikes and similar forms of protest remain problematic.

### *Persecution for criticism*

The *Criminal Code* foresees sanctions of up to two years of imprisonment for libel and one year for insult or humiliation. Such harsh sanctions disproportionately limit the right to freedom of expression, particularly where politicians invoke those sanctions in defence of criticism.

The former Mayor of Vilnius, Artūras Zuokas, addressed the Vilnius District Court complaining of an opponent's

allegations of corrupt business connections, which the former mayor called 'groundless'.<sup>16</sup> The Mayor further lodged a complaint with the Journalists' Ethics Inspector with requests to remove critical articles about him, condemn the article as 'spurious', and reprimand the source. Having received a negative decision from the inspector, the Mayor submitted a complaint to the Administrative Court of Vilnius District.<sup>17</sup> In that case, the Mayor expanded his complaint to include comments made by readers of online media, which provide a feedback forum on news articles. For this, the Mayor's lawyer requested that law enforcement institutions initiate a pre-trial investigation and demanded that internet portals reveal names of the authors of critical comments.<sup>18</sup>

Such actions by politicians infringe on democratic principles. Moreover, those actions demonstrate either a primitive understanding of or disregard for the right to freedom of expression. Legally, media, political opponents, as well as any individual, have a right to hold opinions and freely express ideas, giving due consideration of public decency. This right may be limited on legitimate grounds foreseen in the law, such as national security, constitutional order, human health, honour and dignity, private life and morals.<sup>19</sup> Public figures should comprehend that boundaries for their criticism are broader



than those for the ordinary individuals, and should discontinue the misuse of existing legal framework.

Simply being negative does not subject public comments to investigation. That essential idea is apparently poorly understood by state institutions as well. It has been reported that the State Security Department (SSD) requested the online information portals *Alfa.lt* and *Bernardinai.lt* to disclose names of individuals who had written negative comments about the institution.<sup>20</sup> Such demands expose an open disregard for democratic principles: every person has a right to criticise the activities of state institutions and its officers; mass media has a duty to disclose its source of information only upon a warrant of the court.<sup>21</sup>

#### *Right to collect and receive information*

In 2006, the adoption of amendments to the *Code of Administrative Violations of Law* enhanced access to information. The amendments made illegal certain refusals by the state and municipal officers to provide information to representatives of mass media and incidences where journalists are precluded from exercising professional duties.<sup>22</sup> Foreseen penalties increased five times to a maximum 500 Litas (145 €).

Attempts to influence media were reported on several occasions. For instance, regional press received proposals from one of the political parties to sign agreements to refrain from publication of critical information about the party.<sup>23</sup> The Radio and Television Commission of Lithuania (RTCL) decided to prohibit rebroadcast of Belarus national television programmes on the grounds that doing so would disseminate disinformation. The Administrative Court of Vilnius District annulled the decision due to procedural infringements; RTCL failed to address concerns of the Committee of Journalists and Publishers Ethics.<sup>24</sup>

#### *Right to impart information*

In 2006 the State Security Department (SSD) detained the publisher of a newspaper for attempting to publicise classified information. The edition of the newspaper was confiscated and the online site of the newspaper was closed. The head of the SSD later had difficulty in answering the question whether a warrant of the court had been obtained before taking action.<sup>25</sup> At the time of this writing, it remains unclear whether SSD obtained a court warrant.

In cases involving the disclosure of classified material, the European Court of Human Rights repeatedly stated that one of the decisive factors

is the public interest. In the given case, the newspaper attempted to reveal information about alleged corruption ties among politicians and therefore pursued a public interest. Disclosure of such information should not be regarded as an offence since dissemination of this kind of information assists in fighting corruption and forms an integral part of the journalists' work, without which a democratic state and free press would be unlikely.<sup>26</sup>

### *Truth in advertising*

There have been instances of infringement upon the right to receive unbiased information by failure to identifying articles paid for by individuals or organisations.<sup>27</sup> Media investigation showed that eight out of ten regional newspapers agreed to publish commissioned articles without proper identification, thus misleading the readers into thinking the article is unsolicited. Three editors of newspapers further agreed to sell the name of a journalist; one offered to send a journalist for the interview.<sup>28</sup>

Compounding the problem, some ministries were named as clients who commissioned mass media. The press reported that nine ministries spent more than 2.4 million Litas for commissioned press articles, television and radio programmes in 2006.<sup>29</sup> Media

outlets did not reveal the fact that the articles and shows were commissioned.

By all international standards, such articles should be classified as advertising and not assumed as objective reporting. The current practice fails to identify the fact and source of articles either paid for by organisations and individuals or commissioned by institutions. In some cases, similar articles are marked by the letters 'PR' (public relations) printed at the end of an article. However, the meaning of the abbreviation 'PR' is not known to the majority of Lithuanian readers.

Commissioned media articles lead to the decline of objective and unbiased journalism. To secure a better legal regulation, commissioned articles should be treated as advertisement and marked accordingly, as is done in other Western states.<sup>30</sup> In Lithuania, however, because of the narrow definition of 'advertisement' provided in the *Law on Advertisement*<sup>31</sup>, commissioned media articles are not embraced within the definition of 'advertisements' and exist in a legal vacuum. The end result is that the general public is unaware of the political persuasiveness of the content and may therefore accept emotional appeals as fact. Commissioned media products should be included into the notion of advertisement and thereby the distinc-

tion between the advertisement (including political advertising) and the news and creative work of journalists must be made clear. Additionally, the powers of the Journalists' Ethics Inspector should be expanded to allow the imposition of administrative sanctions for commissioned articles which fail to properly identify the nature and source of the content.

### *Freedom of expression and responsibility*

Freedom of expression is not absolute. It is limited by responsibility for misuse of this right. Therefore, incitement of hatred based on race or religion becomes unacceptable in any form. Irresponsibility has led to lower standards over the years as journalists and editors pursue what they believe to be their right to freedom of expression.

The daily newspaper "*Respublika*" disregarded the warning issued by the Commission on Journalists' and Publishers' Ethics to refrain from publication of the controversial cartoons of prophet Mahomet, on the grounds that it could lead to the incitement of hatred, given the experience of newspapers which published the cartoon in other countries.<sup>32</sup>

Managers of Lithuanian MTV channel broadcast the cartoon, "Pope's

Town", in which the Pope is portrayed in disrespectful manner, disregarding the recommendation of the Commission of Lithuanian Radio and Television to abstain from broadcasting the cartoon due to its possible incitement of religious hatred.<sup>33</sup>

Considering that a thin line separates freedom of expression and its violation, in case of doubt, media representatives should pay more respect to the interests and rights of people whose rights might be violated by the dissemination of the information. In the case of broadcasting a cartoon mocking the Pope and publishing cartoons of the Mahomet, the impact on certain groups should have been taken into account.

### *Right to freedom of peaceful assembly*

During the visit of Queen Elizabeth II in Lithuania in 2006, police arrested a group of animal protection activists demonstrating against the use of fur of endangered Canadian black bear for the production of hats for the Wales guardsmen. In the peaceful demonstration, one protester wore a masked bear costume. All protesters were subsequently arrested. Though the *Law on Assembly* allows actions against demonstrators wearing masks, it also requires some evidence of intent to commit an offence.<sup>34</sup> In the given case, there was no such intention displayed or expressed. There-

fore, the measures applied by the police officers were disproportionate to the actions of the demonstrators. Lithuanian police officers should apply the law in the specific context upon evaluation of all aspects of the situation.

Freedom of assembly, besides the right to peaceful assembly, includes the right to strike. According to the *Labour Code*, a strike can be announced if two thirds of employees approve through a secret ballot. Experience has shown that it is difficult to reach this number. The Confederation of Lithuanian Trade Unions sought to liberalise conditions for strikes in 2006, without success.<sup>35</sup>

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<sup>16</sup> *BNS* and *lrytas.lt* (online), 30 October 2006. “A. Zuokas Lost Case Against Political Rival”. Available from: <http://www.lrytas.lt/?id=11622003781160997038&view=4>.

<sup>17</sup> *Infoplex*, 20 December 2006. “Vilnius, 18 December 2006: Vilnius Administrative District Court Rejected Complaint by Vilnius Mayor Against Journalists Ethics Inspector Romas Gudaitis”.

<sup>18</sup> Vanagas, Justinas. 4 September 2006. “A. Zuokas: Against Critical Online Commentators”. *Delfi* (online). Available from: <http://www.delfi.lt/news/daily/lithuania/article.php?id=10589308>.

<sup>19</sup> *Law on Provision of Information* 1996. Nr. I-1418, Vilnius: Seimas. Revised version of 11 July 2006, Nr. X-752.

Article 4, para. 1, states: “Everyone has a right to free expression of thoughts and opinions and collection and dissemination of information and ideas. Freedom to collect, access, and disseminate information may only be restricted by law and only if it is necessary to secure the constitutional order of the state, human health, dignity and honour, private life, and morals”. Available from: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_e?p\\_id=280580&p\\_query=&p\\_tr2=](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_e?p_id=280580&p_query=&p_tr2=).

<sup>20</sup> *alfa.lt*, 16 November 2006. “In Sight of SSD – comments to *alfa.lt* (video)”. Available from: <http://www.alfa.lt/straipsnis/89467>.

<sup>21</sup> *Law on Public Information*, Article 8 and 9.

<sup>22</sup> The amendment, outlined in Article 214 of the *Code of Administrative Violations of Law*, addressing refusal of information or obstruction came into force on 30 June 2006.

<sup>23</sup> *BNS*, 25 November 2006. “Conservatives Attempted to Control Information in Regional Press”.

<sup>24</sup> Lukaitytė, Rasa. 22 June 2006. “Prohibitions of Belarus TV Re-Broadcasts Illegal”. *Delfi* (online). Available from: <http://www.delfi.lt/news/economy/Media.article.php?id=10762245>.

<sup>25</sup> Vanagas, Justinas. 14 September 2006. “Appeal to A. Valantinas for Detention of A. Drižius”. *Delfi* (online). Available from: <http://www.delfi.lt/news/daily/lithuania/article.php?id=10681684>.

<sup>26</sup> *Delfi* (online), 7 September 2006. “Editor A. Drižius of ‘Free’ Newspaper Detained by SSD”. Available from: <http://www.delfi.lt/news/daily/lithuania/article.php?id=10634465>.

<sup>27</sup> S. Šilauskas. 14 February 2006. “Economic Motives Prevail Over Ideals in Mass Media”.

*Bernardinai*. Available from: [www.bernardinai.lt/index.php?url=articles/43050](http://www.bernardinai.lt/index.php?url=articles/43050).

<sup>28</sup> Prialgauskaitė, Saulė. 10 February 2006. “The name of the journalist is (not) for sale”. *Žurnalistų žinios*. Available from: <http://www.vtv.lt/content/view/15195/239>.

<sup>29</sup> Lukaitytė, Rasa. 28 November 2006. “State ministries spend millions on commissioned articles and programs”. *Delfi* (online). Available from: <http://www.delfi.lt/archive/print.php?id=11352255>.

<sup>30</sup> An example of an appropriately cited article can be found in an article published by *The Economist* on 10 March 2007, which clearly states in the title the nature of the content: “A fresh look at Romania – Advertisement, Government of Romania, Ministry of European Integration”.

<sup>31</sup> *Law on Advertising 2000*. Nr. VIII-1871, Vilnius: Seimas. Article 2, para.7 states: “Advertisement is in any form and by any means disseminated information, relating to a person’s commercial, financial or professional activities, promoting purchase of goods or services, including real estate and takeover of property rights and obligations”. Available from: <http://www3.lrs.lt/cgi-bin/getfmt?C1=e&C2=284173>.

<sup>32</sup> *BNS*, 7 February 2006. “Media Ethics Observers Against Cartoon Publications”.

<sup>33</sup> Urbonaitė, Ieva and M. Jackevičius. 7 July 2006. “MTV plans to show ‘City of the Pope’ outraged not only bishops, but the Lithuanian Commission on Radio and Television as well”. *Delfi*. Available from: <http://www.delfi.lt/news/economy/Media/article.php?id=11442311>.

<sup>34</sup> *Law on Association 1993*. Nr. I-317, Vilnius: Seimas.

Section 1, Article 8, para. 1 states: “Gatherings are prohibited, when its members ...mask or camouflage their faces in any way so as not to be recognised, which indicate their readiness to commit offences”. Available from: [http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc\\_l?p\\_id=210632](http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=210632).

<sup>35</sup> *Omni* (internet), 4 January 2006. “Trade Unions Try to Liberalize Conditions of Strike Announcement”.

## 3. Right to a Fair Trial

Human Rights Monitoring Institute documented clear reasons behind an overall distrust of courts within society. The events of 2006 have shown that courts often violate guarantees to a fair trial. Pre-trial investigations in criminal cases are conducted unprofessionally. Yet there has been no political will for fundamental reforms. On the contrary, politicians displayed an old-fashioned approach towards the courts, disrespect for the decisions of international courts, and delayed the implementation of reforms necessary to improve protection of citizens' rights. The right to fair trial is believed most vulnerable among civil and political rights and liberties.

### *Procedural violations*

A November 2006 survey has revealed that Lithuanians highly distrust courts and law enforcement institutions. One-third of respondents stated that they do not trust the courts. Among those respondents who believed that their rights were violated, only about 22% of respondents appeared in courts. Of a number of the political and civil rights evaluated – the right to personal security, property, private life, freedom of expression, and the right to political participation – the right to a fair trial was considered the most vulnerable, a trend unchanged

since a similar survey found 40% of Lithuanian held the view two years ago.<sup>36</sup>

The President of the Supreme Court of Lithuania, whilst introducing a review of the courts' work, acknowledged that lengthy trials is one of the major obstructions to due process.<sup>37</sup> In three cases heard in 2006, the European Court of Human Rights found Lithuania in violation of Article 6 (Right to a Fair Trial) of the *European Convention on Human Rights* due to the unreasonably long disposition of cases.<sup>38</sup>

During the trials, judges often violate the principle of equality of arms and display a biased attitude towards the defendants, according to the results of a long-term trial observation in criminal cases published in 2006 by Human Rights Monitoring Institute. Commonly, evidence obtained at the pre-trial stage is considered to have a greater value than court proceedings. Judges tended to urge the accused to confirm statements made during the pre-trial investigation and frequently reject statements contradicting the version of the case construed by the pre-trial investigation officers.

Observers in the Trial Observation Project<sup>39</sup> noted that judges relied on the statements made by the witnesses at the pre-trial stage and exhibited no

urgency to hear them at the trial. In the absence of witnesses at the trial, defendant and his lawyer had no opportunity to question witnesses. In some cases, statements made by witnesses at the pre-trial stage played essential role in reaching judgements.

Rather than being impartial, judges appear to assume guilt upon the presence of the defendant in court.<sup>40</sup> Because of this, the court is often guided by the presumption of guilt made by investigators, rather than arriving at this assumption during the actual hearing. Such practices encourage mistakes and abuse, especially if the pre-trial investigation has been performed unsatisfactorily.

#### *Unprofessional conduct of pre-trial investigations*

Overall, in 2006 the quality of pre-trial investigations remained unsatisfactory.<sup>41</sup> The unsatisfactory work of pre-trial investigators was criticised by the President of the Supreme Court of Lithuania:

“the quality of pre-trial investigation plays a vital role in the examination of the case in court and mistakes made at this stage are impossible to correct later”<sup>42</sup>

and by the Public Prosecutor General, who acknowledged that pre-trial in-

vestigation officers lack education, motivation and organisation:

“a very desperate situation exists with the pre-trial investigation officers who are directly responsible for the conduct of investigations”.<sup>43</sup>

The head of the General Prosecutor’s office in charge of pre-trial investigation supervision stated that the pre-trial investigations and accusations based on assumptions contribute toward poor quality and superficiality of proceedings.<sup>44</sup> This was demonstrated profoundly in the case of a well known writer, Gintaras Beresnevičius, who died while being transported to a detention centre by police officers. At issue was whether the widow could lay claim to the status of a victim, and thereby afforded procedural rights.

During the pre-trial investigation, the officers in charge did not acknowledge the relatives of the writer as victims. As a result, relatives had no access to case material and had no procedural rights. The police officers who transported the writer were not considered suspects in the case. After the investigation, the case was terminated, despite claims by the widow expressing her dissatisfaction with the handling of the case. Instead of collecting evidence and submitting the case to court, investigators defended the police officers and declared them innocent.

Under public pressure, the office of the General Prosecutor took over investigation of the case. It acknowledged that the “Vilnius Public Prosecutor’s office could not explain all the inconsistencies in the documents of the case”.<sup>45</sup> It re-opened the case and granted victim’s status to the widow. At the time of this writing, the pre-trial investigation had not been concluded.

Although politicians and officers agree that there are numerous challenges in pre-trial investigations in Lithuania, seemingly few actions have been taken to improve the situation. Whilst the government established a working group for analysis and recommendations, no results have been produced thus far.<sup>46</sup>

#### *Courts system in need of complex reform*

In 2006 the court system of Lithuania was shaken by scandals, reaching its apogee when the President of Lithuania expressed his doubts concerning the competence of the President of the Council of the Courts.<sup>47</sup> This was a result of continued disregard of many substantial problems in the judicial system. The judicial system was criticised for its unprofessional management, antiquated hierarchy and insularity. The need for complex reform of the system was emphasised.<sup>48</sup> Upon resigning from the Supreme

Court of Lithuania, a well known judge openly talked about the need for systematic reforms. He stated that, at present, the judicial system is dominated by the personal interests of groups of people –and honest judges are ‘pushed aside’.<sup>49</sup>

In April 2006, the Constitutional Court of Lithuania adopted a decision in which the independence of the courts and judges and the right to a fair trial was tied to the necessity of accomplishing the structural reforms of the system. The decentralisation of the judicial system and the application of principles of democracy and openness within the daily work of the system were cited as key necessities.<sup>50</sup> The decision of the Constitutional Court positively influenced the composition of the Council of Judges.<sup>51</sup> However, it did not bring about other substantial changes during the year.<sup>52</sup>

Information about the outcome of the parliament working group, created for the revision of the *Law on Courts*, has not been publicised. From the information provided by mass media, it seems essential reforms will not be carried out at this time. Proposed changes will be minor and may decrease the institutional independence of the courts. There is a proposal to attribute the selection and nomination procedure of the judges to one institution – the President.<sup>53</sup> Most likely, initiatives decreasing the



independence of the judicial system and increasing the power of the political branches will be welcomed by the Parliament because of existing old-fashioned relationships among the branches of the government and subordinated courts.

#### *Remnants of old-fashioned thinking*

Despite bitter memories from cases where politicians commented or otherwise interjected in court proceedings<sup>54</sup>, the chairman of the Parliament made references to concrete cases examined in the court, in breach of presumption of innocence, whilst publicly criticising the work of the courts. He further commented on an ongoing case concerning the expulsion of an individual who had threatened the President of the State.<sup>55</sup> In the decision of the Supreme Administrative Court, it was stated that the chairman of the Parliament violated the principle of courts' independence. However, the chairman refuses to acknowledge that he put a pressure on the court. In defence, he quotes an inaccurate citation from media reports used in the decision of the court. Though the inaccuracy was minor, the chairman of the Parliament consistently invokes the citation in denying the obvious fact of interference in the work of the court.

Another issue that became apparent in 2006 was politicians' disregard for

court decisions. The European Court of Human Rights has stated in a number of cases that Lithuania violated the Convention by not executing decisions of the courts (in 2006 as well).<sup>56</sup> The Parliament up to now has not amended the *Law on the Assessment of the USSR National Security Committee (NKVD, NKGB, MGB, KGB) and Members' Activities* as provided for by the decision of the European Court of Human Rights in 2004. As a result, Lithuania may face sanctions and negative political outcomes. Politicians also delay in solving persistent issues in relation to the Constitutional Court; most importantly, direct access by ordinary citizens.

#### *Constitutional Court: access and due process*

At present, citizens have no direct access to the Constitutional Court. This unjustifiably limits citizens' possibilities to defend their constitutional rights in court. In case of an indirect constitutional review (as it is now when referral to the Constitutional Court is done through the courts), ordinary individuals have no right to participate in the hearing of the case at the Constitutional Court, even if they are the initiators of the procedure. Such situation is in breach of the principle of equality of arms.

Lithuania is among the few European states which do not provide direct

access<sup>57</sup> to the Constitutional Court. Although society and legal community is in favour of direct access to the Constitutional Court, in recent years, it has become clear that the practical implementation of the idea is stalled due to an inexplicable delay on the part of politicians. The working-group, established by Parliament to examine possibilities for submission of individual complaints to the Constitutional Court, began its work in the autumn of 2006.<sup>58</sup> No results have been announced thus far.

The Constitutional Court must improve its process for examining cases. As stated above, the current arrangement of the referral procedure to the Constitutional Court is in breach of the principle of equality of arms<sup>59</sup>, as neither the representative nor the parties sustaining the doubts of the court or initiating the review of the legal act can participate in the hearing. The other party, representing the state and advocating for the law under review, is often represented by specialists from Parliament or other governmental institutions. Bearing in mind that the ruling of the Constitutional Court often determines the outcome of the case, it may be suggested that such an arrangement violates Article 6 of the Convention (Right to Fair Trial), since the substantial issues of the case are examined without providing an opportunity to the concerned party to present its position and arguments.

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<sup>36</sup> More information on the public opinion survey is available from: <http://www.hrmi.lt/project.php?strid=1191&id=4255>.

<sup>37</sup> Vanagas, Justinas. 28 April 2006. "Imposition of Stricter Liability for Judges' Mistakes". Available from: <http://www.delfi.lt/archive/article.php?id=9412456&categoryID=7&ndate=1146171600>.

<sup>38</sup> European Court of Human Rights. *Kuvikas v. Lithuania* 2006 (Nr. 21837/02). *Jakumas v. Lithuania* 2006 (Nr. 6924/02). *Simovavičius v. Lithuania* 2006 (Nr. 37415/02). Available from: <http://cmiskp.echr.coe.int>.

<sup>39</sup> See Trial Observation Project from [www.hrmi.lt](http://www.hrmi.lt).

<sup>40</sup> Under the Trial Observation Project of Human Rights Monitoring Institute, observers noted that in one court trial the prosecutor requested and received a pause in the proceedings during which the prosecutor and judge entered the judge's chambers and communicated behind closed doors. Such situations raise reasonable doubt as to the independence of a judge.

<sup>41</sup> Human Rights Monitoring Institute. 2005. *Human Rights in Lithuania: Overview*, pp. 20–22, 25.

<sup>42</sup> Vanagas, Justinas. 28 April 2006.

<sup>43</sup> Vanagas, Justinas. 19 September 2006. "A. Valantinas Indicates Pre-Trial Investigation Problems in Parliament". *Delfi*. Available from: <http://www.delfi.lt/archive/article.php?id=10735314&categoryID=7&ndate=1158613200>.

<sup>44</sup> *Omni*, 03 October 2006. "Attempts to Convict 139 Innocent People Within Half-Year Period in Lithuania". Available from: <http://www.balsas.lt/naujienos/lietuva/straipsnis70127>.

<sup>45</sup> BNS, *Delfi.lt*, 17 November 2006. “Widow of G. Beresnevičiaus Granted Victim Status”. Available from: <http://www.delfi.lt/archive/article.php?id=11256401&categoryID=7&ndate=1163714400>.

<sup>46</sup> Vanagas, Justinas. 19 September 2006. In the article, Minister of Interior Raimondas Šukys recognised the existence and increasing relevance of the problem, while Julius Sabatauskas, head of the Parliament Committee on Legal Affairs was quoted as calling for the formation of a working group to clarify the situation and explain why it occurred.

<sup>47</sup> Gudavičius, Stasys. 4 April 2006. “Who Lies to the President?” *Kauno Diena*.

<sup>48</sup> See: Human Rights Monitoring Institute, 2004. *Human Rights Monitoring in Lithuania: Overview*, pp. 23–25; *Human Rights Monitoring in Lithuania: Overview*, 2005, pp. 22–23. Also: Makaraitytė, Indrė. 14–20 April 2006. “Courts – under operation”.

<sup>49</sup> Varnauskas, Rimantas and V. Mikelėnas. 24 April 2006. “Courts crossed a dangerous line” (Editorial). *Ekstra*.

<sup>50</sup> Ruling of the Constitutional Court of Lithuania. Case No. 13/04-21/04-43/04. Available from: <http://www.lrkt.lt/dokumentai/2006/n060509.htm>.

<sup>51</sup> Vanagas, Justinas. 28 June 2006. “More Chairs than Judges in Council of Judges”. *Delfi* (online). Available from: <http://www.delfi.lt/archive/article.php?id=9983664&categoryID=7&ndate=1151442000>.

<sup>52</sup> As of May 2007.

<sup>53</sup> See: Varnauskas, Rimantas. 8 January 2007. “Julius Sabatauskas: We are all not without fault”. *lrytas.lt* (online) (Commentary). Available from: <http://www.lrytas.lt/?data=20070>

108&id=11682335341166168771&view=4. The Author, Chair of Parliament Committee on Legal Affairs, points out that the new amendment of the *Law on Courts* submitted to the President actually modifies the selection procedure. According to Varnauskas, a working group formed for revisions to the amendment concluded that a person or institution responsible for assignment of judges should be responsible for the selection procedure and that judge’s assistances should have five years’ work experience while others employed in higher positions should have seven.

See also: *Infolex*, 20 October 2006. “Chair of the Judges Council on Daily Life in the Court”. While participating in a parliamentary working group, the chair of the Judges council voiced his concern about selection of judges and professional examination processes. Available from: <http://www.infolex.lt/portal/start.asp?Tema=39&str=17035>.

<sup>54</sup> In 2002, the European Court of Human Rights found Lithuania in violation of the applicant’s right to a fair trial because the former Chair of the Parliament publicly commented on the applicant’s guilt while the case was being examined by the court. See: *Butkevičius v. Lithuania* 2002 (Nr. 48297/99).

<sup>55</sup> Vanagas, Justinas. 29 June 2006. “Has Viktoras Muntianas Repeated Mistake of Vytautas Landsbergis?” *Delfi*. Available from: <http://www.delfi.lt/archive/article.php?id=9995514&categoryID=7&ndate=1151528400>.

<sup>56</sup> European Court of Human Rights. *Jasiūnienė v. Lithuania* 2003 (Nr. 41510/98). *Jurevičius v. Lithuania* 2006 (Nr. 30165/02).

<sup>57</sup> BNS, *Delfi* (online), 24 January 2006. “Opportunity for citizens to refer to the Constitutional Court is no longer questioned”. Available from: <http://www.delfi.lt/archive/article.php?id=8595272>.

<sup>58</sup> Gudavičius, Stasys. 10 August 2006. "Idea of democracy is sinking in the mist", *Bernardinai* (online) (Commentary). Available from: <http://www.bernardinai.lt/index.php?url=articles/51846>.

<sup>59</sup> Human Rights Monitoring Institute. 2005. *Human Rights in Lithuania: Overview*, p. 25.

## **4. Discrimination, Racism, Anti-semitism and Other Forms of Intolerance**

In 2006 cases of discrimination, racism, anti-Semitism and other forms of intolerance continued. Discrimination reflected negative stereotypes and intolerance toward different racial, ethnic, religious and social groups. Roma remain one of the most adversely-affected ethnic groups. Rising intolerance was noted toward Muslims and refugees. The reaction of the state institutions is vague, and investigations into cases of discrimination and hatred are mainly ineffective.

### *Problems of Roma integration*

Unsolved problems of the Roma minority in Lithuania<sup>60</sup> attracted attention from the international community. In 2006 Lithuania received negative evaluations from the European Commission against Racism and Intolerance<sup>61</sup> and the UN Committee on the Elimination of Racial Discrimination.<sup>62</sup> Both international institutions expressed concern for the prevailing hostile and discriminatory attitude towards the members of the Roma community in Lithuania; they noted that longstanding social problems, such as employment, housing, health care and education have not been resolved.

In 2006 state institutions did not take effective measures to reduce Roma segregation from society. Roma continued to face substantial poverty and illiteracy. Little had been done to diminish negative stereotypes and enhance protection against discrimination. The *Roma Integration Programme* has not yet been adopted, though its preparation has been ongoing for several years. The measures foreseen in the *National Anti-Discrimination Programme of 2006–2008*, approved by the Government in September 2006, for improvement of the situation and support of vulnerable groups, including the Roma, are largely inactive and fail to directly address existing challenges.

Politicians and state officials often try to justify their unwillingness to take firm action by providing an explanation that the principle of equality precludes providing special support to segregated groups in society. Such an approach is flawed. It avoids the formulation and implementation of an effective integration policy. The EU equality directives envision positive discrimination and do not prohibit Member States from adopting special measures to assist vulnerable groups. Furthermore, the European Commission against Racism and Intolerance and the Committee on the Elimination of Racial Discrimination encourage Lithuania to take additional action in order to solve the social problems of the Roma community. The

design of positive integration measures, as well as their subsequent implementation, should become an indispensable part of State policy. Responsible public officials should be trained accordingly.

Education of society is equally important, since Lithuanians have a particularly negative attitude towards Roma. The majority of European residents (64%) believe that discrimination based on ethnic origin is one of the most common forms of discrimination. A relatively small number of Lithuanians (23%) consider discrimination based on ethnic origin to be frequent. However, two-thirds of society believes that being Roma (gypsy) may cause difficulties for a person of Roma origin.<sup>63</sup> Additionally, 75% of respondents would not like to live in a Roma neighbourhood.<sup>64</sup>

The negative attitude of society is further sustained by some biased actions on the part of State institutions and mass media. From a human rights point of view, the public disclosure of a person's ethnic origin is one of the most relevant problems faced today. Mass media associate Roma with crime and drug dealing. In the last few years, police officers usually did not reveal the ethnic origins of suspects when providing information to the mass media about crimes committed; this is not the case with Roma.<sup>65</sup>

The practice of disclosing an individual's ethnicity in police crime bulletins was nearly forgotten; however, it has been revived.<sup>66</sup> Another aspect strengthening the negative image of the Roma is the mention of a Roma settlement as the scene of a crime or using the location as a reference.<sup>67</sup> Such information often proves to be false. In 2005, media reported that a Roma individual burned down a police post located by the Roma settlement; in 2006, however, the Court sentenced a person of non – Roma origin for the crime.<sup>68</sup>

In 2006, an investigation continued into a criminal case initiated with regard to demolition of Roma houses in the Kirtimai settlement. It was one of the most striking violations of Roma rights in Europe. A positive development in the case occurred in August 2006, when an inhabitant of Kirtimai was formally recognised as a victim in the case. The Office of Equal Opportunities, the Parliamentary Ombudsmen, and the European Commission against Racism and Intolerance concluded that the measures taken by the municipality of Vilnius were illegal.

#### *Ambiguity in combating racism and anti-Semitism*

In Lithuania, investigations of hate and intolerance cases are slow and ineffective. In 2006 the radical politi-

cian Mindaugas Murza and his associates obstructed a Jewish ceremony in Šiauliai, inciting epithets and hate speech. Due to the statute of limitations, all accused persons escaped criminal punishment. M. Murza and his associates received merely monetary fines.<sup>69</sup>

As in previous years, there were reports of neo-Nazi symbols being displayed, even promoted, in public. A bar in Kaunas used the symbols during a public celebration.<sup>70</sup> Jewish cemeteries were reportedly desecrated, whilst graves at the Jewish memorial in Vilnius were demolished. Guilty individuals are rarely found in vandalism cases.<sup>71</sup>

The year witnessed increased racist acts committed by skinheads, according to the Centre on Ethnic Studies.<sup>72</sup> At one university, the student academic calendar distributed freely provided an Internet address of a neo-Nazi website.<sup>73</sup>

It is difficult to disagree with the opinion of the European Commission against Racism and Intolerance and the Committee on the Elimination of Racial Discrimination, which held that Lithuanian law enforcement officers lack knowledge and competence in dealing with cases of racism, anti-Semitism and other forms of intoler-

ance. This point is illustrated by the comments of a high-ranking police officer on the aforementioned incident in a Kaunas bar. He stated that the display of Nazi symbols in public ‘does not collide with anything’ if it is done in the form of humour.

The Committee on the Elimination of Racial Discrimination has expressed its concern regarding suspected discriminatory treatment and violence on the part of police officers against individuals from minority groups. Trust in law enforcement institutions, and police officers themselves, is undermined by inappropriate attitudes and incompetence. Therefore, special training should be provided for law enforcement officers, lawyers and judges concerning handling of discrimination complaints.

In its concluding remarks the Committee on the Elimination of Racial Discrimination encouraged the Lithuanian government to recognise racial motive as an aggravating factor, allowing imposition of stricter sanctions for committed crimes.

#### *Intolerance towards sexual minorities*

The majority of society disapproves discrimination but at the same time favours restrictions on freedom of expression for homosexuals. Sixty-one

percent of participants in a public opinion survey would not like to belong to an organisation admitting homosexual members; 58% would be concerned if their children’s teachers were homosexuals; 51% would not vote for a homosexual person who publicly acknowledged his sexual orientation; and 47% believed that homosexuality is a disease. Few knew that the World Health Organization struck homosexuality off the list of diseases in 1973. In addition, 69% respondents believed that homosexual individuals should not be allowed to work in schools, 66% – become priests, and 51% – join the police.<sup>74</sup>

Lithuanians appear to hold discriminatory views, whilst recognising that discrimination based on sexual orientation is common (42%) and increasingly frequent (30%), according to a Eurobarometer survey. In February 2006, organisers of a photography exhibition refused to display photographs of non-traditional families, because some of the photographs pictured homosexual partners. The Office of Equal Opportunities recognised the prohibition as discriminatory and reprimanded organisers.<sup>75</sup>

As in previous years, calls for limiting the freedom of expression of homosexuals gained support among members of the Parliament in 2006. A

group of parliamentarians registered a controversial amendment to the *Law on Protection of Minors from the Negative Effect of Public Information*. Parliamentarians called for ban on public information ‘depicting homosexual relationships in a positive manner’. The project does not provide a definition of what ‘in a positive manner’ means. The representative of the Lithuanian Gay League agreed with restrictions imposed on information considered damaging to minors, but with the caution that adoption of the proposed amendments would allow the banning of films with homosexual characters and websites of non-governmental organisations representing homosexuals.<sup>76</sup>

The exhibition ban and the submission of an anti-gay legislative amendment indicated that politicians and the general public insufficiently comprehend that the right to freedom of expression cannot be limited on the ground of sexual orientation.

In 2006 public attention turned to the challenges of transsexual persons. In a rare move, the European Court of Human Rights held a public hearing in the case of a homosexual person against Lithuania.<sup>77</sup> Two other transsexuals went public with their stories.<sup>78</sup> The ensuing public discussions demonstrated ignorance of the issue and intolerance towards individuals facing transsexuality.

Lithuanian politicians, heeding popular opinion, refused to adopt a law that would allow transsexuals to receive surgical treatment. *The Civil Code of Lithuania* provides the right to change gender; however, its practical implementation was made contingent upon adoption of the law that would specify conditions for and procedure of treatment. The *Civil Code* imposes on Parliament an obligation to pass this law as early as 2003. It has yet to be adopted. By refusing to adopt and implement legislation, Lithuanian politicians, firstly, are in violation of the law and in breach of ethics and, secondly, demonstrate a flagrant lack of compassion and tolerance towards persons adversely-affected by the challenges of transsexuality.

#### *Constricted approach towards refugees*

In Lithuania, the problem of refugees is mainly seen within the context of international obligations. To fulfil those obligations a number of positive measures have been adopted: the amendment to the *Law on Legal Status of Foreigners*, according to which individuals seeking asylum in Lithuania are no longer detained, but instead registered in the Foreigners’ Registration Centre and their freedom of movement is unrestricted. An order by the Minister of Labour and Social Affairs extended the period of integration from 30 to 60 months and granted social rights to persons who



have obtained asylum status in Lithuania. The time limit for bringing a case to a regional administrative court and appealing to the High administrative court was extended from 7 to 14 days.

Still, the number of individuals who were granted asylum in Lithuania is minimal. The European Commission against Racism and Intolerance encouraged the Lithuanian government to ensure that every entitled individual is granted the status of refugee after a positive evaluation of an asylum application. The tendency is granting of humanitarian protection instead.<sup>79</sup>

The Commission further emphasised the inadequacy of infrastructure at the Foreigners' Registration Centre, where asylum seekers and detained illegal immigrants are accommodated in separate premises. In particular, the Commission noted that the Centre does not ensure social, psychological and rehabilitation services.

Asylum seekers coming from different cultural backgrounds encounter various problems related to social integration. Especially worrisome are negative attitudes towards refugees from Chechnya, demonstrated by the employee of the Government's Chancellery in alluding to degrees of illicit behaviour:

"...[houses] could have been purchased by bandits and even by Chechnyans or Russian State security agencies".<sup>80</sup>

As in the case of Roma, disclosure of Chechnyan ethnicity in crime reports is common.<sup>81</sup> Mass media tend to portray Chechnyans as threats to society.

#### *Growing challenges for the Muslim minority*

Negative attitudes toward Muslims increased in the past decade. In 1990 and 1999, 31% to 34% of participants in public opinion polls did not want to live in a Muslim neighbourhood. In 2005 the number jumped to 50% and to 58% in 2006. Respondents increasingly noticed rather negative features of Muslims than positive ones. The percentage of respondents linking Muslims with crimes has risen from 52% in 2005 to 63% in 2006. The belief that Muslims do not obey the rules of behaviour in a community increased from 51% to 61%.<sup>82</sup>

The rise in negative attitudes toward Muslims might be influenced by the increased attention of mass media to the dangers linked to Islam. Important events in 2006 which captured the attention of the Lithuanian public were explosions in London, riots in

French suburbs, the Mahomet cartoon scandal, and the Israel-Lebanon conflict.

*Discrimination against elderly, disabled and faith-based challenges*

Lithuanian citizens believed that age and disability formed the most common ground of discrimination (53%), according to a Eurobarometer report. By the end of 2006 another public opinion survey expanded those findings to include public awareness of discrimination against the mentally ill.<sup>83</sup> Of particular concern were reported instances of discriminatory statements made by public officials. Discriminatory provisions are similarly embedded in regulations.

In 2006 a university exam required students to describe their personal impressions of All Saints' Day and Christmas Eve celebrations. The Office of Equal Opportunities, having investigated the complaint, found that the assignment was in breach of the *Law on Equal Opportunities*. Individuals professing faiths other than Christianity would encounter difficulty in describing Catholic commemorations, and therefore, those students were indirectly discriminated against on the basis of religion.<sup>84</sup>

Another case involved Lithuanians of non-Lithuanian ethnic origins being

charged for official registration of diplomas obtained abroad. From 2000, Lithuanians of Lithuanian ethnic origin are exempt from paying a fee for the recognition of diplomas issued by foreign schools. Nationals of other ethnic background must pay the fee.<sup>85</sup> This privilege directly discriminates against Lithuanian nationals of non-Lithuanian ethnic origin. A similar provision providing exemptions from charges when requesting a residence permit should be rescinded from regulations.<sup>86</sup>

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<sup>60</sup> Human Rights Monitoring Institute. *Human Rights in Lithuania: Overview*, 2004, p. 39. *Human Rights in Lithuania: Overview*, 2005, pp. 35–36. *Human Rights in Lithuania: Overview*, 2006, pp. 33–33.

<sup>61</sup> European Commission against Racism and Intolerance. Third report on Lithuania, Nr. CRI(2006)2, adopted 24 06 2006. Available from: [http://www.coe.int/t/e/human\\_rights/ecri/1-ecri/2-country-by-country\\_approach/Lithuania/Lithuania\\_CBC\\_3.asp](http://www.coe.int/t/e/human_rights/ecri/1-ecri/2-country-by-country_approach/Lithuania/Lithuania_CBC_3.asp)

<sup>62</sup> Concluding Observations of the UN Committee on the Elimination of Racial Discrimination, 68<sup>th</sup> session, 21 March 2006. Nr. CERD/C/LTU/CO/3, Consideration of Reports Submitted by State Parties under Article 9 of the Convention. Available from: <http://www.ohchr.org/english/bodies/cerd/docs/CERD.C.LTU.CO.3.pdf>.

<sup>63</sup> *Eurobarometer*, June–July 2006. “Discrimination in the European Union: Data on Lithuania”. Available from: [http://ec.europa.eu/employment\\_social/eyeq/uploaded\\_files/documents/country\\_sheet\\_lt\\_en.pdf](http://ec.europa.eu/employment_social/eyeq/uploaded_files/documents/country_sheet_lt_en.pdf).

<sup>64</sup> Centre for Ethnic Studies. 2006. "Research on Public Opinion: 2005–2006". *Ethnic studies 2006/1*. STI, Eugrimas, p. 175.

<sup>65</sup> *Omni* (online), 24 October 2006. "Gypsy Baron Remained Alive Only by Miracle".

<sup>66</sup> Police Department reports: 22 June 2006. "11 a.m., Raseiniai, Tiesos str.. Two gypsy women entered the building. One of the women held the owner of the house and the other stole 4,000 Litas from a skirt pocket". 15 June 2006. "12:30 p.m., Plungė district, Jodėnų village. A gypsy girl appeared in the unlocked house of A. M. (born in 1928), threw gas on the owner's face and stole 1,000 Litas". Available from: [www.policija.lt](http://www.policija.lt); accessed 29 January 2007.

<sup>67</sup> *Ibid.* 20 June 2006. "14:00 p.m., Vilnius, Darius and Girėno str. near the gypsy settlement policemen from the Vilnius senior police office arrested law enforcement officials in uniform on suspicion of corruption. After interrogation the officials were released".

<sup>68</sup> Vanagas, Justinas. 5 June 2006. "Man Sentenced for Setting Fire in Police Post at the Roma settlement". *Delfi* (online). Available from: <http://www.delfi.lt/news/daily/crime/article.php?id=9773922&categoryID=5995>.

<sup>69</sup> *Delfi* (online) quoting Šiauliai regional television. 10 November 2006. "M. Murza and Associates Receive Fines of Thousands of Litas". Available from: <http://www.delfi.lt/news/daily/lithuania/article.php?id=11189269>.

<sup>70</sup> Patrons of the Fortas Bar in Kaunas were greeted by a man dressed as Adolph Hitler and invited to view Nazi paraphernalia. *See also: BNS, Delfi* (online), 19 September 2006. "E. Zuroff Protests Against Swastika in Kaunas Bar". Available from: <http://www.delfi.lt/archive/article.php?id=10734948>.

<sup>71</sup> Vandalism is becoming more common due to impunity. *See also: BNS*, 18 December 2006. "Russian cemetery vandalised in Utena". Available from: <http://www.delfi.lt/news/daily/crimes/article.php?id=11550258>.

<sup>72</sup> *See: Jankauskaitė, Daiva*. 19 September 2006. "Chinese Chef Beaten by Skinheads". *Delfi* (online). Available from: <http://www.delfi.lt/news/daily/crime/article.php?id=10730965>.

*Omni* (online), 4 September 2006. "USA citizen Beaten in Front of Police".

*Delfi* (online), 4 September 2006. "Chinese became Target of Young Neo-Nazis in Vilnius". Available from: <http://www.delfi.lt/archive/article.php?id=10590663&categoryID=7&ndate=1157317200>.

<sup>73</sup> Purytė, Sigita. 10 October 2006. "For students, Link to Neo-Nazis". *Respublika*. Nr. 231 (4986).

<sup>74</sup> *See: Alfa* (online), 20 November 2006. "Lithuanians Remain Homophobic". Available from: <http://www.alfa.lt/straipsnis/84987>. Vilmorus. July 2006. *All open and safe at workplace*. Public Opinion Poll.

<sup>75</sup> *BNS and lrytas.lt*, 31 March 2006. "Church Representatives Against Public Exhibition of Homosexuals". Available from: <http://www.lrytas.lt/index.asp?id=11438058061141728610&view=4>.

<sup>76</sup> Digrytė, Eglė. 4 October 2007. "Politicians Fight Against Promotion of Homosexuality Outrages Gays". *Delfi*. Available from: <http://www.delfi.lt/archive/article.php?id=10861170&categoryID=7&ndate=1159909200>.

<sup>77</sup> Urmonaitė, Edita. 18 October 2006. "Strasbourg Heard About Hardships of Transsexual". *Lietuvos Rytas*.

See also: Sinkevičius, Dainius. 18 October 2006. "Case of Lithuania Attracts Hundreds of Lawyers in Strasbourg". *Lietuvos Žinios*.

<sup>78</sup> See for example Zigmantavičiūtė, Jurgita, "Having changed sex, Lina is dreaming about the wedding-dress", *Vakarinė Palanga*, 28 10 2006.

<sup>79</sup> European Committee against Racism and Intolerance. Third Report on Lithuania.

<sup>80</sup> *Delfi* (online), 6 April 2006. "R. Kupčinskas Appealed to Prosecutor Office on the V. Račkis statement about Chechnyans". Available from: <http://www.delfi.lt/archive/article.php?id=9241436&categoryID=7&ndate=1144270800>.

<sup>81</sup> Police Department reports. 29 January 2007: "16:30 p.m., Švenčionių r., Pabradėje, Pienių str. Four to five persons (of Chechnyan origin) entered the grounds of a company, threatened with a knife and beat up the director of the company, S. S. (born 1955), as well as other employees, and stole 200,000 Litas. 2 February 2005: "On 1 February, 23.30 p.m., Jonava district, Rukla, refugee centre. Three men of Chechnyan origin came into the flat of Lithuanian citizen J. N. O. (born 1977), threatened him with a knife, beat up the owner of the flat and stole 500 Litas. Suspects A. D. (born 1977) and A. M. (born 1980) were detained.

<sup>82</sup> Beresnevičiūtė, V. and M. Frėjutė-Rakauskienė. 2006. *Etninė tematika ir nepakantumas Lietuvos žiniasklaidoje: dienraščių analizė*. Etniškumo studijos 2006/1. STI, Eugrimas, pp. 19–44.

<sup>83</sup> Human Rights Monitoring Institute. 2006. *Public Opinion Survey in 2006: How Lithuanians perceive the Human Rights Situation in Lithuania*. Available from: [http://www.hrmi.lt/admin/Editor/assets/ZT\\_menuo\\_2006\\_Vilmorus\\_pristatymas.pdf](http://www.hrmi.lt/admin/Editor/assets/ZT_menuo_2006_Vilmorus_pristatymas.pdf)

<sup>84</sup> See Complaints section of Office of Equal Opportunities Ombudsperson. Available from: <http://www.lygybe.lt/newsf.php>.

<sup>85</sup> Decision of the Government of the Republic of Lithuania. 15 December 2005. Nr. 1458; Subsection 4.473. "State list of objects liable to charges, chargeable amounts, payment and reimbursement order confirmation".

<sup>86</sup> Human Rights Monitoring Institute. 2005. *Human Rights in Lithuania: Overview*, p. 35.

## 5. Women's Rights

In 2006, women experienced inadequate access to work and support programmes. Their economic leverage weakened. Insufficient measures were undertaken to address sexual harassment problem, exploitation of women, human trafficking, domestic violence, discrimination based on marital status, and difficulties faced by combining work and family.

### *Right to work*

Women's right to work is not guaranteed adequately. Whilst the number of registered unemployed persons is declining, the ratio of women therein is growing. The number of women registered as unemployed grew from 57% in 2005 to 62% in 2007.<sup>87</sup> Actual employment efficiency was 15% lower than men.<sup>88</sup>

Differences in the average wage of men and women in Lithuania are greater than in other Member States of the European Union. Men earn more than women; even in spheres predominated by women. Generally this difference is about 18%; in some sectors, such as financial services, women are paid 51% of wages afforded to men.<sup>89</sup>

### *Financial leverage*

Whilst the level of relative poverty in the country is rising<sup>90</sup>, women remain in a weaker economic position in comparison to men. In households led by women, poverty is higher and growing faster.<sup>91</sup> Strikingly, women-led households accounted for a poverty level 2.4% higher than the national average.<sup>92</sup> In 2006, the notion of a uniquely feminine trend in poverty failed to attract political attention.

### *Work-family challenges*

Implementation of the State policy on assistance for families remains unsatisfactory and often strengthens social isolation and discrimination. A public opinion survey showed that the general perception of family is expanding and now includes not only the traditionally perceived model of family consisting of husband, wife and children, but also unmarried couples with children or without, families with one spouse working abroad, and single parent families.<sup>93</sup>

Yet amendments to the *Law on Social Insurance*, enacted on 1<sup>st</sup> July 2006, provide a right for parental leave up to one month and allowance – to married men.<sup>94</sup> This provision discriminates against families that have

similar obligations under alternative arrangements. State officials justify the discriminatory treatment by referring to the preclusion of abuse of state resources. Regulations thereby deprive approximately one-third of fathers of the opportunity to care for children during the first month of life. Less than 2% of all males eligible for parental leave use this right in practice.

Accordingly, women continue to face higher risk of discrimination in the labour market, despite a prohibition on gender discrimination by the *Law on Equal Opportunities for Women and Men*. Lithuania is not promoting a family model of two breadwinners, either. A study carried out by the Vytautas Magnus University indicated that women 'pay more' for the possibility to have a family. They also face more stress trying to combine private and professional life.<sup>95</sup>

### *Reproductive rights*

Laws do not adequately guarantee the reproductive rights of women. An absence of legal regulation confounds the areas of right to family planning, safe pregnancy and birth giving; artificial fertilisation; reproductive health care; information and education on contraceptive measures and methods, benefits, efficiency and risks; and the

right to use new, efficient, safe and individually-acceptable means of securing reproductive health. The sensitivity of the topic largely contributes to delays in adoption of relevant legislation. Without a clear political will, programmes for sexual and reproductive education and prevention of unwanted pregnancies lack consistency.

### *Sexual harassment and domestic violence*

Sexual harassment in Lithuania is regarded ambiguously. On the one hand, the majority of society opposes and condemns sexual harassment at work.<sup>96</sup> On the other hand, women faced with the problem of sexual harassment are unwilling to take legal action due to fear of condemnation and humiliation. They often turn to psychologists for help; a meagre number decide to initiate legal proceedings, of which the outcome is largely ineffective.<sup>97</sup>

Many women do not feel safe at home. Women are three times as likely to face physical violence or fatal encounters within the family as in any other situation.<sup>98</sup> There is no statistical data provided on the number of women experiencing domestic violence; violent acts at home are not viewed with the same level of scrutiny as violent criminal acts at large.<sup>99</sup> One

of the reasons why women are unwilling to file an official complaint and initiate an investigation is that they are not confident courts will punish their assailants.<sup>100</sup>

The *State Strategy on Fighting Violence against Women for year 2007–2009* is a positive development. The strategy envisions allocation of resources to NGOs assisting abused women, improvements in the legal framework, and introduction of effective penalties. It is important that the goals set forth in the strategy will be implemented effectively in practice.

### *Human trafficking*

Lithuania is one of the leading European countries in human, essentially women, trafficking. Every year approximately 1.000 to 1.200 women leave the country for or are sold into sex slavery.<sup>101</sup> Lithuania remains a country of transit and a destination for human trafficking.<sup>102</sup> Women trapped in human trafficking express feelings of insecurity. They often refuse to testify in court<sup>103</sup>, which inadvertently creates favourable conditions for the continuous development of human trafficking. It is essential, therefore, to create a safe environment for women to testify in human trafficking cases.

<sup>87</sup> Lithuanian Labour Exchange, 2006. Available from: <http://www.ldb.lt>.

<sup>88</sup> *Ibid.*

<sup>89</sup> *Ibid.*

<sup>90</sup> In 2003 the poverty level reached 15.9%; in 2004, 16%; in 2005, 16.9%.

<sup>91</sup> During 2004–2005, the poverty level in households led by men rose to 0.7%, whilst women-led households accounted for nearly double at 1.2%.

<sup>92</sup> Lithuanian Department of Statistics, 2006. Available from: <http://www.stat.gov.lt/lt/pages/view/?id=1333>.

<sup>93</sup> According to the RAIT Market Analysis and Research Group survey of 2006, 98.9% of respondents perceive the family model as a married couple with children; 81% perceived as married couple without children; 68.3% perceived as unmarried couple living together with children; 57.9% accounted for long distance families, where one spouse emigrated to work abroad; and single parents accounted for 53% of respondents.

<sup>94</sup> Law on Social Insurance 2006. Nr. X-659, Vilnius: Seimas. *Amendment of Articles 2, 3, 5, 6, 7, 8, 10, 16, 17, 19, 20, 21, 22 and supplement, change of section 3 name and addition of Articles 18(1), 18(2), 18(3), paragraph 1 of Article 18 of the Law on Social Insurance.* Available from: [http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc\\_1?p\\_id=278830&p\\_query=&p\\_tr2=](http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_1?p_id=278830&p_query=&p_tr2=).

<sup>95</sup> Reingardienė, Jolanta (Ed). *Between Paid and Unpaid Work: Family Friendly Policies and Gender Equality in Europe.* Conference Papers.

## 5. WOMEN'S RIGHTS

Vilnius, 2006. At the international conference on Family Friendly Policies and Gender Equality in Europe on 15 November 2006, research confirmed that rearing children had negative consequences at work for women. As a result of those consequences, 11% had to change workplaces; 25% abandoned careers; 8% were forced to leave; and 23% experienced increased physical and psychological stress at work.

<sup>96</sup> LNK Television, 12 September 2006. A survey conducted online during the “JEIGU” program indicated that 90% of respondents did not justify sexual harassment at work.

<sup>97</sup> Delfi (online), 25 April 2006. “Sexually harassed women are not in a rush to protect their rights”. Available from: [http://www.straipsniai.lt/seksualinis\\_priekabiavimas/puslapis/11626](http://www.straipsniai.lt/seksualinis_priekabiavimas/puslapis/11626).

<sup>98</sup> Smalinskaitė, Monika. 4 July 2006. “‘Don’t Be Silent!’ Project Encourages Women to Speak Out on Violence at Home”. *Bernardinai* (online). Available from: <http://www.bernardinai.lt/index.php?url=articles/50508>.

<sup>99</sup> Sipavičienė, Virginija. 25 January 2007. “Violent Husbands are Free of Responsibility”. *Panevėžio balsas*. Available from: <http://www.delfi.lt/archive/article.php?id=11922744>.

<sup>100</sup> U.S. Department of State. 2006. *Lithuania: Country Reports on Human Rights Practices – 2006*. Available from: <http://www.state.gov/g/drl/rls/hrrpt/2006/78824.htm>.

<sup>101</sup> Lithuanian Ministry of Interior. 30 March 2007. “Prevention and control of human trafficking”. Available from: [http://sos.vrm.lt:81/mod\\_richtext.php?pip=2](http://sos.vrm.lt:81/mod_richtext.php?pip=2).

<sup>102</sup> U.S. Department of State. 2006. *Lithuania: Country Reports*.

<sup>103</sup> Činkienė, Jurgita and V. Rudavičius. 20 January 2007. “Women Challenges for Sex Slavery are Modest”. *lrytas.lt* (online). Available from: [http://www.lrytas.lt/?data=20070120&id=akt20\\_a1070120&view=2](http://www.lrytas.lt/?data=20070120&id=akt20_a1070120&view=2).



## 6. Children's Rights

In 2006 key problems in the area of children's rights concerned violence against children in families and state institutions, inaccessibility of psychological assistance, inadequate protection for children with development disabilities, and issues related to guardianship and adoption.

### *Use of violence in families and state institutions*

Lithuanian children encounter a high level of different types of violence in public welfare institutions<sup>104</sup>, families and foster families, according to the Ombudsman for Protection of the Rights of the Child.<sup>105</sup>

Of special concern is the widespread use of violence in families and public schools. Though children in families experience mostly physical violence, they face psychological and sexual abuse as well.<sup>106</sup> The *Criminal Code* foresees legal responsibility for infliction of light forms of physical pain and low-level health disorders, yet envisages no liability for bodily harm within the family. Public opinion surveys indicate that society supports and justifies the use of physical punishment as an educational tool.<sup>107</sup>

Physical violence is widespread in public schools. In addition to physical violence, children frequently face different forms of psychological abuse. One of the most common forms of abuse is the onslaught of insults and humiliation among peers. The NGO Children's Help Line, which provides psychological assistance to children, published survey results 64.5% of children in grades 4–10 were victims of violence and 73.2% had been humiliated his/her classmates at least once during the first quarter of 2006 alone.<sup>108</sup> It was noted that children who experienced violence and insecurity in school tended to avoid attending school.<sup>109</sup>

Measures to fight violence against children have been proposed more than once.<sup>110</sup> No concrete measures were undertaken in 2006. Criminal cases involving physical harm and other forms of child abuse require special attention. Currently, teenage children may initiate legal proceedings on the basis of a private complaint and is regarded as a case of private accusation. Considering the vulnerability of the child, cases of child abuse should not be treated as a private matter of a teenager.

### *Inaccessibility of psychological assistance*

A working group established by the Ombudsman for the Protection of the

Rights of the Child concluded that in 2006 psychological assistance was provided inadequately to children. There was a shortage of psychologists in schools, health care institutions, as well as agencies tasked with the protection of children's rights.<sup>111</sup>

Of particular concern is the inaccessibility of psychological help for children during pre-trial investigation proceedings. A psychologist is rarely present during an interrogation, though the possibility is provided for by law.<sup>112</sup> Legally, a psychologist or a representative from the Agency for the Protection of Children's Rights may be present during procedural actions involving minors, upon request of parties to the proceedings or on the initiative of a law enforcement official. Nevertheless, the law should mandate the presence of psychologist during investigations involving minors.

### *Education of children with disabilities*

The quality of education for children with disabilities is hampered by deficiencies in municipal social services. In 2006 an inadequate provision of social services in municipalities became markedly evident. A lack of funding for institutions providing social services triggered a shortage of employees and resources.

Children with minor disabilities are inadequately prepared for integration and placement into public schools. The integration of children with light disabilities into the public school system is poorly managed. The mainstream school system is unprepared to integrate children with disabilities. This is accentuated by a shortage of specialists, teachers untrained in working with disabled children, school buildings and grounds unable to accommodate the needs of children with disabilities.

Students that might otherwise excel in the general education system are routinely placed in special care schools. Lithuania estimates 15.000 children with disabilities. Among them, 18% of children with minor disabilities and 26% with medium disabilities are placed in special schools,<sup>113</sup> despite the *Law on Special Education*, which provides for placement of children with minor disabilities in comprehensive schools.<sup>114</sup>

In view of the fact that special schools educate large numbers of children with minor disabilities, the Ombudsman for the Protection of Children's Rights proposes to create a group of independent experts to evaluate whether a child with minor disabilities should be transferred to an ordinary school.<sup>115</sup>

The *Law on Special Education* foresees the right to free transportation to educational facilities.<sup>116</sup> Yet the right is not ensured for all eligible disabled children. According to special education school reports, 83% of eligible children received free transportation.<sup>117</sup> It must be noted that a failure to guarantee free transportation for all eligible disabled children presents a risk that some unattended children will be institutionalised eventually in public care homes.

### *Public care and adoption*

Many uncertainties remain regarding the proper procedures governing the removal of a child from the family prior to his placement in public care institutions. Existing gaps in standards for child removal procedures and a lack of independent oversight may lead to irresponsible decisions and misuse of authority. In Mažeikiai, three children were taken from a mother later recognised as taking proper care of them.<sup>118</sup> Procedures for a child's removal from the family must be clarified and approved immediately.

Representatives of the Agency for the Protection of Children's Rights should neither encourage nor discourage adoption of children. It has been reported, however, that representatives of the Agency try to talk perspective parents out of adoption.<sup>119</sup>

<sup>104</sup> See: *Lietuvos Rytas*, 25 August 2006. "Not a House, but a Concentration Camp".

<sup>105</sup> In 2006 the Ombudsman for the Protection of the Rights of the Child received 357 complaints, whereby the Ombudsman found 31 cases of violence in families, 16 in public schools, 11 in public care institutions, and seven in foster families and other areas. See: Office of the Ombudsman for the Protection of the Rights of the Child. Annual Report, 2006, pp. 8, 13. Available from: <http://vaikams.lrs.lt/metines.htm>.

<sup>106</sup> *Ibid.*

<sup>107</sup> Sveikas žmogus, 27 October 2006. "Violence Against Children in Families: A Problem Ignored by Society". Available from: [http://www.sveikaszmogus.lt/index.php?pagrid=savaite\\_tema&veiksmas=ziureti&id=11](http://www.sveikaszmogus.lt/index.php?pagrid=savaite_tema&veiksmas=ziureti&id=11).

<sup>108</sup> Children's Help Line. 25 May 2006. "Battle Against Taunting Begins in Pilaitė Public School". Available from: <http://www.vaikulinija.lt/index.php/spaudai/20060525>.

<sup>109</sup> *Kontrastai*, 4 February 2006. "Children do not attend schools. Is it only the parents fault?" See also: Cilinskas, Remigijus, with V. Levickaitė and I. Tamutienė. 2006. *Problems and Needs of Children Avoiding School*. Monogram. Available from: [http://www.naujosjungtys.lt/projektas/dokumentai/nelankantys\\_mono.pdf](http://www.naujosjungtys.lt/projektas/dokumentai/nelankantys_mono.pdf).

<sup>110</sup> See: Human Rights Monitoring Institute. 2005. *Human Rights in Lithuania: Overview*, pp. 42–43.

<sup>111</sup> Psychological health centres provide one psychologist for every 40,000 people on average. See: Norkienė, Daiva. 27 September 2006. "Lithuania in the Grip of Psychological Illnesses". *Lietuvos žinios*. Available from: <http://>

/www.bernardinai.lt/index.php?url=articles/53553.

<sup>112</sup> Annual Report of the Ombudsman for Protection of the Rights of the Child, 2006, p. 27.

<sup>113</sup> *Ibid.*, pp. 27, 30.

<sup>114</sup> *Law on Education 1998*. Nr. VIII-969, Vilnius: Seimas. Article 17.

<sup>115</sup> Annual Report of the Ombudsman for Protection of the Rights of the Child, p. 116, para. 18.

<sup>116</sup> Article 27 of *Law on Special Education*.

<sup>117</sup> Annual Report of the Ombudsman for Protection of the Rights of the Child, p. 29.

<sup>118</sup> *Lietuvos Rytas*, 1 January 2006. “Children’s Rights Ombudsman Protects Family”.

<sup>119</sup> Ombudsman for Protection of the Rights of the Child. Information Bulletin Nr. 5, January–March 2006.

## 7. Rights of Persons with Physical and Mental Disabilities

Public spaces are not adequately adapted for the needs of people with physical disabilities, and their right to work is not secured. Problems related to a legal incapacity, among them insufficient legal assistance, remain unresolved. Individuals with light mental disorders cannot benefit from privileges afforded by the status of limited incapacity. Supervision and responsibility of appointed guardians is insufficiently ensured.

### *Environmental obstructions*

*The Law on Social Integration of Persons with Disabilities*<sup>120</sup> requires that public buildings, private living areas and surroundings, and public transportation would be adapted to the special needs of physically disabled.

Legislation provides for physical and environmental retro-fitting to accommodate the needs of disabled persons; however, its practical implementation remains problematic. Every year the number of persons in need of retro-fitted private living areas increases by 3.500. Living houses should be fully or partly adapted for 24.000 people.<sup>121</sup> Resources allocated for this purpose are inadequate. In most cases, dis-

abled individuals are forced to live in houses ill equipped for their needs.

People with disabilities cannot live a full and independent life. In 2006, the Minister of Labour and Social Affairs ordered funding for integration of persons with disabilities.<sup>122</sup> The Department of Disabled Persons Affairs, implementing the order, approved retro-fitting of living areas for people with special needs and gave priority to a group of young people with disabilities (from 7 to 24 years old).<sup>123</sup> As a result, a question arises as to whether such an arrangement was not discriminatory in regard to the elderly.

Most public buildings remain inaccessible. About 30.000 public buildings in Lithuania<sup>124</sup> require adjustments for the special needs of people with disabilities. Few have been adapted in practice. A journalist in Kaunas conducted an independent observation in which a healthy person in a wheel chair attempted to access public buildings. The outcome indicated that most buildings were inaccessible, including hospitals, State-guaranteed legal aid agencies, the public library and central bookshop. Representatives of disabled persons' organisations<sup>125</sup> call for stronger sanctions to combat failure to comply with regulations<sup>126</sup> mandating accessibility.

Provisions for public transport and access to public information remain

unsatisfactory. People with disabilities often have few means to take advantage of the opportunities available to the majority of society, including access to a variety of information sources. At present, some television programmes provide closed-caption viewing and sign language translation, and other information sources extend to comprehensive school programmes and books adapted partly to the special needs of the disabled.<sup>127</sup> Nevertheless, the extent of actions undertaken to date remains inadequate.

With the rapid development of information and communication technologies, the state should place more effort into solving this problem. Compensated technologies, designed to provide better access to information for people with disabilities, are expensive. The efforts of non-governmental organizations alone are not sufficient. The state should pay more attention and provide more financial resources to ensure information access to prevent isolation and promote the development of full and independent living among the disabled.

#### *Integration into the labour market*

Employment of persons with physical and mental disabilities is not sufficiently ensured. Although the general level of unemployment is decreasing, the number of employed persons with physical disabilities remains unchanged and, according to the La-

bour Exchange, numbered up to 29,000. Only 15% of persons with physical disabilities participated in the labour market in 2006, and they accounted for a mere 4% of overall employment.<sup>128</sup>

Persons seeking employment initially encounter the problem of inadequate professional knowledge and skills. In an effort to solve this problem, a network of institutions was established to provide special training and education.<sup>129</sup> This commendable service is often inaccessible to persons with disabilities, however, due to difficulties in transportation and adaptation of information sources. Persons living in rural areas and those with extreme disabilities hardly enjoy the full benefit of the educational and training programmes.

No statistical data is available for the number of employed persons with mental disabilities. Integration of persons with mental disorders into the labour market is particularly complicated. A recent public opinion survey showed that, in society and among employers, a negative attitude prevails toward persons with mental disabilities, as 56% of respondents believe that persons with mental disabilities are not suited to earn wages.<sup>130</sup> In response to the question whether as an employer one would employ a person with mental disabilities, only 6.3% of the respondents firmly re-

sponded 'yes'.<sup>131</sup> Those who do find employment experience discrimination and are forced to hide their disabilities in the workplace.<sup>132</sup> A common occurrence, media reports highlighted the case of a girl working in a sewing company who was singled out by her work colleagues, treated disrespectfully and continually reminded about perceived differences.<sup>133</sup>

#### *Recognition of legal incapacity*

The legal framework regulating the recognition of legal incapacity provides opportunities for procedural infringements and infringements on rights upon declaration of person's legal incapacity.

At judicial proceedings where the question of person's capacity is questioned, *Civil Procedural Code* norms require that a person whose mental capacity is being questioned should be present at the court proceeding. The court may decide a case without the presence of the person only in instances where it is impossible for the person to appear in court, to question in person, or to deliver procedural documents personally.<sup>134</sup>

In September 2006, it came to light that a person had been declared legally incapable without having had an opportunity to participate at the trial and without being aware of the court's

decision declaring him to be legally incapable. Courts proceedings where in absent plaintiffs are uninformed of attempts to declare them legally incompetent is a serious violation of human rights, yet it is quite common in Lithuania.<sup>135</sup>

In cases determining legal capacity, the law does not require legal representation. This comes despite the fact that once declared legally incapable the individual is stripped of most civil, political and economic rights, including the right to manage property, make agreements, vote and work. The European Court of Human Rights has acknowledged the necessity for the state to secure legal counsel for individuals in cases when important issues are at stake for the individual, the procedure is complicated, and a person is incapable of presenting his own case properly and satisfactorily without the assistance of a lawyer.<sup>136</sup>

As all of the aforementioned conditions are present in determination of legal capacity, Lithuania should modify the legal framework and establish obligatory legal representation in such cases.

Unlike most European States, Lithuanian regulation does not foresee the possibility of limiting legal capacity with minor mental disorders. If so, it

would allow them to maintain some of their rights. Despite the existence of a wide range of psychological and mental disorders of differing degrees, an individual's legal capacity is either maintained or taken away completely. Surprisingly, capacity may be limited in cases of abuse of alcohol, drugs and other toxic substances.

If the present legal framework could be modified to take into consideration the wide variety of mental disorders and different levels of legal capacity, especially when considering those with only minor mental disorders, it would allow medical experts and courts to evaluate each person's situation more objectively and implement restriction of rights according to an individual's particular needs and mental condition.

The absence of an effective mechanism to guarantee the supervision and responsibility of legal guardians remains unchanged.<sup>137</sup> A guardian who improperly performs his duties does not protect the custodian's rights and interests. Abuses emanating from his own self interest may result in the guardian being relieved of his duties, yet only by the court and upon the initiation of custodial institutions or prosecutors.<sup>138</sup> Those prescribed procedures disregard checks and balances which would ensure the full protection of custodians from the abuse of guardians.

<sup>120</sup> *Law on Social Integration of Persons with Disabilities 2004*. Nr. IX-2228, Vilnius: Seimas. Article 11, para. 1. Available from: <http://www3.lrs.lt/cgi-bin/getfmt?C1=e&C2=233791>.

*See also: Law on Construction 2004*. Nr. I-1240, Vilnius: Seimas. Article 6, para.3.

Available from: [http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc\\_1?p\\_id=290504](http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_1?p_id=290504).

<sup>121</sup> Seimas of the Republic of Lithuania. 2002. *National Programme for Social Integration of Persons with Disabilities: 2003–2012*, para. 10.1. Available from: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_1?p\\_id=279741](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_1?p_id=279741).

<sup>122</sup> Order of the Minister for Social Protection and Employment of 29 July 2006. Nr. 83-3303. *For Confirmation of the Order of Programs Financing the Social Integration of Persons with Disabilities*, para. 2.2. Vilnius: State Gazette.

<sup>123</sup> Department of Disabled Persons Affairs. *See: http://www.ndt.lt*.

<sup>124</sup> *Programme for Social Integration of Persons with Disabilities: 2003–2012*, para. 10.1. Public buildings include commercial centres, museums, schools, libraries, theatres, banks, post offices, hospitals, health clinics, among others.

<sup>125</sup> Dainoras, Lukas. 20 February 2006. “Persons with Disabilities in Wheelchairs Face Overpowering Obstacles”. *Kauno diena*. Available from: <http://www.delfi.lt/archive/article.php?id=8825436>.

<sup>126</sup> Decision of the Minister of Environment. 2001. Nr. 317, 2001 06 14. Approved the Technical Regulation of Construction STR 2.03.01:2001. *Buildings and Territories: Requirements for the Needs of Persons with Disabilities*. Vilnius: State Gazette, Nr. 53–1898. Para. 19 states that territories must be con-

structed in a way that would not cause difficulties for persons with disabilities or limit their independent lifestyle, movement and activities. Available from: [http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc\\_1?p\\_id=162430&p\\_query=&p\\_tr2=](http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_1?p_id=162430&p_query=&p_tr2=).

<sup>127</sup> *Programme for Social Integration of Persons with Disabilities: 2003–2012*, para. 10.2.

<sup>128</sup> Institute for Labour and Social Research. 2006. *Situation Analysis of Complicated Integration in Labour Market and Measures for Improvement*. Vilnius: Institute for Labour and Social Research. Available from: [http://www.ldb.lt/files/sunkiai\\_integrojiami.pdf](http://www.ldb.lt/files/sunkiai_integrojiami.pdf).

<sup>129</sup> The Lithuanian system of labour market education and consultation consists of the Lithuanian Labour Market Education Council, established by the Social Security and Labour Ministry, which subordinates seven territorial labour market education and consultation councils and 10 labour market education centers. *See: http://www.darborinka.lt*.

<sup>130</sup> *BNS, Delfi* (online), 3 April 2006. “In Lithuania Persons with Mental Disabilities are Not Accepted into Labour Market”. Available from: <http://www.delfi.lt/news/daily/Health/article.php?id=9211120>.

<sup>131</sup> Spinter tyrimai Public Opinion Research. January–July 2006. *Survey of Public Opinion On Integration of Persons with Mental Disabilities into Labour Market*. Available from: [http://www.gip-vilnius.lt/equal/visuomones\\_nuomone\\_2006\\_liepa.html](http://www.gip-vilnius.lt/equal/visuomones_nuomone_2006_liepa.html).

<sup>132</sup> Būdytienė, Giedrė. 5 April 2006. “Life does not end with appearance of mental disorders”. *Kauno diena*. Available from: <http://www.kaunodiena.lt/?id=6&aid=36417>.

<sup>133</sup> Petkevičiūtė, Giedrė. 14 April 2006. “Employers Afraid of Persons with Mental Disor-



ders". Available from: <http://www.ve.lt/?data=2006-04-14&rub=1065924810&id=1144947336>.

<sup>134</sup> *Civil Procedure Code 2002*. Article 464.

<sup>135</sup> Radvilaitė, Asta. 2 October 2006. "Legally Incompetent: Verdict of Social and Legal Death. Will the Situation Change in the Near Future?" Available from: <http://www.hrmi.lt/news.php?strid=2000&id=4066>.

<sup>136</sup> See: European Court of Human Rights. *Airey v. Ireland 1981 (Nr. 6289/73)*, para. 26. *McVicar v. United Kingdom 2002 (Nr. 46311/99)*, para. 48, 50. *P., C. and S. v. United Kingdom 2002 (Nr. 56547/00)*, para. 91.

<sup>137</sup> Human Rights Monitoring Institute. 2005. *Human Rights in Lithuania: Overview*, p. 62.

<sup>138</sup> *Code of Civil Procedure*. Article 3.246, para. 3.

## 8. Police and Human Rights

Throughout 2006 most challenges from previous years remained unresolved. These include unsatisfactory conditions in police detention facilities, improper work conditions, unprofessional police behaviour, disproportionate use of physical force, abuse of power, and unethical behaviour. The right to life is guaranteed inadequately.

### *Guarantee of right to life*

Nearly half of Lithuanians did not trust police, according to a 2006 public opinion poll. About one-third of Lithuanians viewed police as corrupt, inefficient, and connected to the criminal underworld. In comparison to the other European citizens, significantly fewer Lithuanians trust the police.<sup>139</sup>

In addition to the State's obligation to protect lives, it also has an obligation to ensure that individuals under police authority do not suffer fatal consequences. The European Court of Human Rights has found some States in breach of Article 2 (Right to Life) of the *European Convention of Human Rights* for failure to fulfil this positive obligation. It may be that attitudes among Lithuanian police officers concerning treatment of prisoners

and detainees are pre-conditioned by an overall lack of professionalism and skills. In one example, a woman afraid for her life and wellbeing sought help and protection at the police office in the Šilalė region. She asked the police officers in charge to protect her from her housemate, who was threatening to kill her. The police, however, took no action. One month later, cohabitant fatally shot the woman and himself. The police officer was charged on suspicion of deliberately ignoring information regarding a verbal threat to take a life with a hunting gun.

#### *Poorly maintained police detention facilities*

Unsatisfactory conditions at police detention centres prevail. Out of 46 operating detention stations, only 10 have been determined satisfactory.<sup>140</sup> The Seimas Ombudsmen's Office noted that conditions in the remaining 36 detention stations do not meet the standards envisaged by legislation: unhygienic, cramped cells (less than 5 sq.m. per person); erratic cell allocation; restrictions on exercise and use of bathroom facilities. Additionally, conditions are marked by inadequate health care; an absence of leisure, hygienic equipment and available exercise areas; and a shortage of interrogation and medical facilities and offices.<sup>141</sup> Such conditions represent a breach of the *European Convention of Human Rights*, which guarantees the prohibition of torture and

inhuman and degrading treatment. Therefore, unacceptable standards should warrant the closure of certain detention centres.

Regretfully, the situation on the whole has remained unchanged, despite the Government approval of the *Detention Facilities Renovation and Living Conditions Improvement Programme 2003–2007*.<sup>142</sup> The ineffective implementation of the programme was largely a result of insufficient allocation of financial resources. According to the *Programme* budget, more than 7.1 million Litas should have been allocated, yet 3.6 million Litas entered the departmental budget.<sup>143</sup> The rapidly rising cost of materials and labour further compounds the challenges of implementation. A revised Programme should be formulated to adequately address prevailing concerns during 2008–2012, having regard to sufficient resources to achieve the measures therein.

The Police Department would benefit from a more judicious use of resources. Financial allocations for 2005–2006 designated improvements in detention facilities were used instead for new furniture and video surveillance camera repairs. This came during a shortage of essential hygiene equipment and medical facilities and whilst interrogation and other facilities were in need of urgent repairs.

### *Organisational challenges*

Beyond circumstances mentioned previously, certain human rights violations have been pre-conditioned by inadequate working conditions, work overflows, and poor management.

Police officers increasingly depart the lower ranks of the force for termination, re-assignment, promotion, or other forms of employment. Turnover at this level is several times higher in Lithuania (10%) in comparison to other European Union Member States. Twice as many lower-ranking police officers were terminated as those employed by the force. The turnover rate has contributed to a shortage of police officers at a time when the workload has increased across the ranks.<sup>144</sup> This, in turn, fuels gaps in recruitment, sub-standard working conditions, and insufficient resources to perform duties. In some cases, financial allocations are not enough to purchase technical equipment, stationary, and even official uniforms.<sup>145</sup>

Apart from the deficiency of material resources, poor management of personnel had a substantial influence on working conditions.<sup>146</sup> Personnel crises occurred in various police stations. At the end of June 2006, forty-six police officers from the Kaišiadorys police office declared their intention to resign. They subsequently appealed to the general public, the State Police

Department and the Ministry of Interior to address what they described as appalling management within the institution.<sup>147</sup> In August 2006, in the Kėdainiai district police office, 95% of all investigative personnel summarily declared their intention to leave the police station.<sup>148</sup> Trade Unions for investigative institutions note that similar discontent existed in more than two-thirds of police stations across the country.<sup>149</sup>

### *Improper behaviour of police officers*

In 2006 police officers displayed tendencies toward disproportionate use of physical force, abuse of power, impolite inter-personal behaviour and use of alcohol on duty. Such behaviour falls behind acceptable standards envisaged in legal acts and the *Police Code of Ethics*.

In Panevėžys, media reported on the case of a man observed by witnesses as allegedly sober and well-behaved person being prevented from entering a nightclub. His protest was answered with a beating by police officers that left a 5 cm scar on his forehead. The person, a former UN peacekeeper in Kosovo, claimed that he had not experienced such a brutal and humiliating use of force as he had experienced in Panevėžys.<sup>150</sup>

Other cases illustrate an overall insensitivity during routine police work.

Vilnius district police officers detained a person for more than six hours on suspicion of having a false driving license, despite the person's explanation that the licence was issued in Panevėžys and that a senior Panevėžys police officer confirmed this fact over the phone.<sup>151</sup>

Media tracked a number of occasions in which police officers were found under the influence of alcohol. In Šilutė, a group of officers were inebriated on duty at the district police station.<sup>152</sup> A police officer from the Klaipėda police station was apprehended after having refused to stop his car on suspicion of drunk-driving.<sup>153</sup> Incidents involving allegedly inebriated officers led to altercations with citizens<sup>154</sup> and damages to their property.<sup>155</sup>

Inappropriate behaviour is believed to be a significant factor in declining public respect for the police force.<sup>156</sup>

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<sup>139</sup> Baltijos tyrimai Public Opinion Research. April 2006. "Lithuanians' Opinion About Police." Available from: <http://www.policija.lt/apklausa/index.php>.

<sup>140</sup> Office of the Seimas Ombudsmen. 2006. *Annual Report*. Vilnius: Seimas, p. 16. Available from: <http://www.lrski.lt/files/233.pdf>.

<sup>141</sup> *Ibid.*

<sup>142</sup> Decision of the Government of Lithuania. 2002. Nr. 141. Approval of *Program for*

*Renovation and Improvement of Detention Facilities and Improvement of Living Conditions 2003–2007*.

<sup>143</sup> Office of the Seimas Ombudsmen. 1 January–31 December 2005. Activity Report of Romas Valentukevičius. Vilnius: Seimas, p. 20. Available from: <http://www.lrski.lt/files/233.pdf>.

<sup>144</sup> Seimas of the Republic of Lithuania. 2006. Nr. XP-1419. *Programme for the Enlargement of the Lithuanian Police System*. Section II: Evaluation of the Current Situation, para. 32. Available from: [http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc\\_l?p\\_id=276516](http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=276516).

<sup>145</sup> *Ibid.*, approved by parliament decision Nr. X-1010 of 21 December 2006. Section II: Present Situation, para. 12. Available from: <http://www3.lrs.lt/cgi-bin/getfmt?C1=e&C2=289590>.

<sup>146</sup> See: Human Rights Monitoring Institute, 2005. *Human Rights in Lithuania: Overview*.

<sup>147</sup> *lytas.lt* (online), 3 August 2006. "Police Officers in Kaišiadorys Revolt Against Supervisor". Available from: <http://www.lytas.lt/?data=20060803&id=11545852391153074589>.

<sup>148</sup> *BNS, Balsas.lt* (online), 7 August 2006. "Police Officers in Kėdainiai Decide to Suffer No Longer:

<sup>149</sup> *Ibid.*

<sup>150</sup> *Panevėžio rytas*, 23 August 2006. "A Scar on the Forehead will be Reminder of Humiliation".

<sup>151</sup> Office of the Seimas Ombudsmen. 1 January–31 December 2005. Activity Report of Romas Valentukevičius, p. 18. Available from: <http://www.lrski.lt/files/233.pdf>.

<sup>152</sup> Skersytė, Žaneta. 4 April 2006. “Drunk Police Officers Evaluated”. *Vakarų ekspresas*. Available from: <http://www.ve.lt/?data=2006=04-04&rub=1065924813&id=1144078> 232.

<sup>153</sup> *Delfi* (online), 28 November 2006. “Drunk Police Officer Did Not Obey Speed Signs”. Available from: <http://www.delfi.lt/news/daily/crime/article.php?id=11354935>.

<sup>154</sup> LNK Television Channel. 25 April 2006. “Intoxicated Police Officer Involved in Fight”. News Section.

<sup>155</sup> Urbonaitė, Ieva. 16 October 2006. “Investigative Inspector Beats Up Telšiai District Resident and Damage Vehicle. *Delfi* (online). Available from: [http://mediabv.lt/zinpr\\_det.php?id=8694](http://mediabv.lt/zinpr_det.php?id=8694).

<sup>156</sup> Baltijos tyrimai Public Opinion Research. April 2006. *Lithuanian Opinion About Police*. Vilnius: Baltijos tyrimai.

## 9. Rights of Prisoners’

As in the previous years, rights of prisoners remained encountered challenge in ensuring employment, proper rehabilitation and recidivist service provision, and inadequate measures for integration into society upon completion of the sentence.<sup>157</sup> Unacceptable detention conditions prevailed: insufficient protection from torture, inhuman and degrading treatment; and overcrowding. Infringements on the right to private life were recorded.

### *Unacceptable conditions of detention facilities*

Officers at detention and prison facilities are obliged to protect detainees from inhuman or degrading treatment and torture. Some doubts remain as to whether this requirement is properly implemented in practice.

The press reported on a case in a Panevėžys prison, where a woman claimed that she was subjected to torture, inhuman and degrading treatment by other female prisoners. According to the victim, four women beat and strangled her, pulled her hair and raped her in a remote area of the prison. She alleged that officers on duty were aware of the incident, but chose not to intervene. The victim

pleaded with the administration to initiate criminal investigative procedures. Her claims were met with a rather vague reaction from penitentiary administration that initiated an inquiry once the case became widely known outside the institution.

The Seimas Ombudsmen's Office representative has made critical remarks concerning the use of the rubber cell at Šiauliai pre-trial detention facility, yet no further action had been undertaken in 2006. Detainees claimed that interrogators employed psychological pressure by placing them handcuffed in the rubber cell, which featured upholstered ceilings and floor, an absence of windows and furniture, and artificial lighting within a four sq.m. space.<sup>158</sup> The administration of the solitary confinement cell explained that the aim was to calm down insurgent prisoners.

It should be noted that keeping a person in a cell of a size less than five sq.m. under similar conditions violates the *European Convention of Human Rights*. Similarly, as in claims of inhuman and degrading treatment, the European Court of Human Rights has confirmed that conditions of imprisonment should not cause a greater degree of suffering or inconvenience than is necessary in confinement facilities. Therefore, instruments which aggravate these conditions should be removed.

Overcrowding is an ongoing concern. At the beginning of 2006, the number of prisoners held in the Šiauliai pre-trial detention facility exceeded the norm by 68%. In the Lukiškės pre-trial detention facility and prison, overcrowding exceeded norm by 22%, whilst the Kaunas pre-trial detention facility registered 6% over average population standards.<sup>159</sup> Experience has shown that aggravating factors linked with overcrowding may facilitate inhuman or degrading treatment and place prison authorities in breach of Article 3 of the *Convention*.

Some measures adopted by State officials to solve the problem of overcrowding called into question the rationale for the actions. This is best illustrated by the case of a situation gone from bad to worse. A group of detainees transferred from the Šiauliai pre-trial detention facility to a similar institution at Lukiškės complained to the Seimas Ombudsmen's Office about the unacceptable conditions of the facility. An examination of the complaint revealed that the group had received 1.5 sq.m. each – substantially below acceptable European standards.<sup>160</sup> The discovery undermined the aim of the transfer: to improve conditions for the prisoners. Other incidents calling into doubt the actions of prison personnel have been attributed to an uneven workload distribution.<sup>161</sup>

Second-hand smoking has attracted attention within the prison system.

A prisoner from Lukiškių penitentiary appealed to the National Tobacco and Alcohol Control Coalition, asking to protect him from exposure to second-hand smoking in the 10 sq.m. cell that shared with five other prisoners.<sup>162</sup>

The Seimas Ombudsmen's Office noted that exposure to a passive smoking violates the *Constitution* on the grounds of the inherent duty of the State to provide adequate health care. The Office further noted that second-hand smoke contradicts the established case-law of the European Court of Human Rights, which noted that a State not securing persons' from passive smoking fails to fulfil its duty of health protection.<sup>163</sup> The provisions of the *Law on Custody* and the *Rules of the Interior Order of Detention Facilities* do not foresee the requirement to divide detainees into smoking and non-smoking sections. Nevertheless, the *Law on Tobacco Control* clearly prohibits smoking in the common living spaces and other common areas in which non-smokers may be exposed to the passive smoking.<sup>164</sup> In the absence of a specific legal regulation regarding smoking in detention facilities, norms of the *Law on Tobacco Control* ought to be applied.

### *Right to Privacy*

The right to privacy includes the right to confidentiality. An independent

investigation carried out by the Seimas Ombudsmen's Office revealed instances when this requirement was breached in prisons.

Upon the decision of the director of the 3<sup>rd</sup> Pravieniškių Penitentiary, prisoners who were placed on the list of drug addicts were required to wear a distinguishing blue stripe on the right side of their shirts. Besides, additional measures were imposed to isolate them from the rest of the prisoners.<sup>165</sup>

A similar case was found in the Lukiškių prison, where, in accordance with the *Instruction on Protection and Supervision in Places of Detention*, the director placed prisoners on a lists designating those with suicidal inclinations or tendencies toward violent acts; these prisoners were required to wear an identification photo and a brown stripe on their clothing to distinguish them from the rest of the prisoners.<sup>166</sup>

It should be stressed that the heads of the penitentiaries applying such measures violated the right to health information and confidentiality, as protected by the *Constitution* and the *European Convention of Human Rights*. Moreover, marking an individual as a drug-addict is in breach of the *Law on Drug Supervision*, which prohibits revealing the health data of drug-addicted patients.<sup>167</sup>

Prisoners' right to an appointment with an unmarried partner was not respected due to gaps in legal regulations and improper applications of the existing legal norms throughout 2006. Guest visitors were requested to present documents proving the registration of the partnership, despite the fact that these documents could not have been obtained in practice, as there was no procedure established by law for their issue. Prison officials persisted, nevertheless, under the guise of the *Rules of the Interior Penitentiaries*.<sup>168</sup> Following an intervention by the Seimas Ombudsmen's Office at the end of 2006, the Minister of Justice issued an order abolishing the faulty practice.<sup>169</sup>

In another case, prison officials at the Šiauliai pre-trial detention facility unreasonably censured the prisoner's correspondence with a spouse. The case went to the European Court of Human Rights (*Čiapas v. Lithuania*), where the Court found Lithuania in breach of Article 8 (Right to Respect of Private Life) of the *Convention*.<sup>170</sup> The Court stated that Lithuanian law authorising the censure of mail should be drafted with more precision. After an examination of the *Law on Custody*, the Court found a lack of such statutory provisions therein. The *Law on Custody* allows, upon the decision of the investigating inspector, prosecutor or judge, to open, read, confiscate, delay or censor in any other form the correspondence of prisoners.

Therefore, the regulation of prisoners' correspondence should be amended and precisely defined.

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<sup>157</sup> Human Rights Monitoring Institute. 2005. *Human Rights in Lithuania: Overview*, pp. 54–55.

<sup>158</sup> *Delfi* (online), 5 April 2006. "Representative of Seimas Ombudsmen Office Unpleasantly Surprised by Rubbery Cell".

<sup>159</sup> Department of Prisons. *Annual Report 2005*. Vilnius: Department of Prisons. Table, "Overcrowded Detention Institutions, 01 January 2006", p. 16, Available from: [http://www.kalejimudepartamentas.lt/?item=vkl\\_at\\_mt&lang=1](http://www.kalejimudepartamentas.lt/?item=vkl_at_mt&lang=1).

<sup>160</sup> Ministry of Health. Hygienic Norm HN 76:1999, approved by Decision Nr. 461 of 22 October 1999. Vilnius: Ministry of Health.

<sup>161</sup> The State Control Board found that Alytus penitentiary, known for dangerous recidivists and AIDS-inflicted inmates, has one officer supervising every six convicts, whereas Vilnius 1st penitentiary, housing former state officials and former representatives of judicial institutions, has a one-to-one ration. *See*: State Control Board of the Republic of Lithuania. 2006. *State Audition Report on Prison Department*. p. 25. Available from: [http://www.vkontrolė.lt/veikla\\_ataskaita.php?1495](http://www.vkontrolė.lt/veikla_ataskaita.php?1495).

<sup>162</sup> *Delfi* (online), 9 November 2006. "Non-smoking Prisoners Seek to Prohibit Smoking in Cells". Available from: <http://www.delfi.lt/news/daily/Health/article.php?id=11173111>.

<sup>163</sup> Office of the Seimas Ombudsmen. *Annual Report 2006*. Vilnius: Seimas Ombudsmen Office. p. 32. Available from: <http://www.lrski.lt/files/233.pdf>.



<sup>164</sup> *Law on Tobacco Control* 1995. Nr. I-1143. Vilnius: Seimas. Section 3, Article 19, para. 1. As amended 15 June 2006. Available from: [http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc\\_1?p\\_id=279471](http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_1?p_id=279471).

<sup>165</sup> Office of the Seimas Ombudsmen. *Annual Report 2006*. p. 30.

<sup>166</sup> Department of Prisons. 2005. *Instruction on Protection and Supervision in Places of Confinement*. Nr. 4/07-130, para. 137. Available from: [http://www.kalejimudepartamentas.lt/default.aspx?item=ta\\_kddisak&id=1762](http://www.kalejimudepartamentas.lt/default.aspx?item=ta_kddisak&id=1762).

<sup>167</sup> *Law on Narcotics Supervision*. Section 5, Article 4.

<sup>168</sup> Ministry of Justice. 2003. *Rules of Interior Penitentiaries*. para. 102, 114. Available from: [http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc\\_1?p\\_id=216039&p\\_query=&p\\_tr2=](http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_1?p_id=216039&p_query=&p_tr2=).

<sup>169</sup> Office of the Seimas Ombudsmen. *Annual Report 2006*. p. 33.

<sup>170</sup> European Court of Human Rights. 2006. *Čiapas v. Lithuania* (Nr. 4902/02). para. 25. Available from: [http://cmiskp.echr.coe.int/\\_\\_\\_tkp197/viewhbk.asp?action=open&table=F69A27FD8FB86142BF01C1166DEA398649&key=59412&sessionId=10496135&skin=hudoc-en&attachment=true](http://cmiskp.echr.coe.int/___tkp197/viewhbk.asp?action=open&table=F69A27FD8FB86142BF01C1166DEA398649&key=59412&sessionId=10496135&skin=hudoc-en&attachment=true).

## 10. Rights of Crime Victims

In 2006, changes introduced failed to improve the situation of crime victims substantially. Among the prevailing challenges remain: the refusal of officials to initiate pre-trial investigations, ineffective compensation and provisions for state-guaranteed legal assistance.

### *Ineffective compensation mechanism*

The year 2006 began with a positive note for victims of crime. Protection mechanisms improved moderately; relevant amendments in criminal law were introduced. The outcome resulted in enhanced access to information for crime victims. Upon request, crime victims now may be informed of the arrest, detention or release of the perpetrator.

A widespread refusal to initiate pre-trial investigative procedures is one of the persistent problems.<sup>171</sup> A survey in 2005 revealed that judicial institutions register 1 out of 10 committed criminal acts.<sup>172</sup> This has been explained partly by the seeming unwillingness among police officers to affect performance records and thereby a corresponding unresponsiveness to phone complaints, written petitions, and calls for investigations is ob-

served. A senior official in the prosecutor-general's office has acknowledged this problem.<sup>173</sup>

Legally, victims of violent crimes are entitled to compensation. Yet the victim encounters numerous difficulties in the application process. These include the victim being unaware of how and under what conditions the compensation may be awarded. Moreover, the application process is obstructed by complicated procedures and restrictions imposed on compensation awards until the perpetrator is found and brought to justice.

In 2006 the Ministry of Justice examined 70 applications for compensation, out of which 50 were rejected.<sup>174</sup> The small number of applications indicates that few victims of violent crimes chose to submit applications, given the prevalence of crime rates across the country.<sup>175</sup> The sparse number of applications also indicates that victims of crime are not well informed about the possibility of State-provided compensation.

Information about compensation has been disseminated through the official *State Gazette*, leaflets, and the website of the Ministry of Justice.<sup>176</sup> Whilst these measures are welcome, clearly they are insufficient. Officials administering the fund should organise targeted information campaigns for victims of crimes, state of-

officials, and non-governmental activists. The information could be presented at seminars for police officers, lawyers, judges, and representatives of NGOs and media.<sup>177</sup>

The application form for compensation is rather complicated. The form demands legal knowledge, detailed information, and submission of a number of documents. Poorly-educated individuals are at risk of fulfilling requirements stated therein.

To improve access to and efficiency of compensation, non-essential documentation requirements should be abolished. In many European countries, a victim of violent crime does not bear the burden of proof, meaning that the victim is not required to prove entitlement to compensation, unlike Lithuanian regulations. Burden of proof in other European countries is usually assessed by officials working with relevant compensation funds, and, in rare cases, by specialised NGOs or government institutions. Lithuania should adopt the international practice and allow the initiation of compensation on the basis of victims' oral or written applications.

Some eligible victims are prevented from receiving compensation in advance. By law, only victims who sustained serious health injuries or rela-

tives (spouses and dependents) of murdered victims may receive compensation in advance. Such limitation does not take into account that victims who sustained moderate or light health injuries may be in need of monetary compensation in advance as well. Often such victims are in need of rehabilitation in order to prevent more serious health problems at a later stage. Therefore, advance financial support could be necessary for victims to undergo relevant treatment and rehabilitation.

Except in cases of murder and serious health injury, the victim is granted full compensation only in cases when the defendant is identified. Considering that investigations may last for years and not necessarily identify the perpetrator, compensation should not be tied exclusively to the identification of the perpetrator.

### *Inefficient provision of legal aid*

Victims of crime also lack information about the state guaranteed legal aid.<sup>178</sup> Concurrently, complaints increased concerning the low quality of government-provided legal aid services. The perceived poor quality of legal aid services might be attributed to the non-specialization in a specific legal field and rather providing legal advice in all legal areas. In some cases, after the primary legal consultation, lawyers refused to counsel individuals

on other issues connected to the same case. In some municipalities, legal counsel was not provided at all due to the absence of the attorneys employed within the institution. Provision of counsel in secondary legal aid registered far fewer cases,<sup>179</sup> presumably due to the overall lack of awareness about its availability and application conditions.

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<sup>171</sup> Human Rights Monitoring Institute. 2005. *Human Rights in Lithuania: Overview*. pp. 58–59.

<sup>172</sup> Uscila, Rokas. 2005. *Basics of Victimology*. Vilnius: Mokslo aidai. pp. 23–24.

<sup>173</sup> Statement of General prosecutor G. Jasaitis on 7 March 2007 in appearance on the Channel 5 Television program “Double Truth”.

<sup>174</sup> Of those 20 requests satisfied, paid compensation amounted to 55,888 Litass (16,199 Euro), or 2,794 Litass (810 Euro) per person on average.

<sup>175</sup> Out of 50 requests for compensation, 14 were rejected due to submission for a crime performed prior to 1 July 2005. *Law on Compensation for Damage Sustained by Violent Crimes*. 2005. Nr. X-296. Vilnius: Seimas. Available from: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_1?p\\_id=259415&p\\_query=&p\\_tr2=](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_1?p_id=259415&p_query=&p_tr2=).

<sup>176</sup> See: Ministry of Justice. Information Sheet for State Support for Crime Victims. Available from: <http://www.tm.lt/default.aspx?item=smurt>.

<sup>177</sup> It should be noted that adoption of the *Law on Compensation for Damage Sustained by*

*Violent Crimes* also relied on international legal acts, including the European Community Directive 2004/80/EC *For the Compensation of Victims of Violent Crimes* of 29 April 2004 and the *European Convention on Compensation of Victims of Violent Crimes 1983*, in which is established the State duty to take appropriate measures to insure dissemination of information to victims of violent crimes on opportunities to receive compensation.

<sup>178</sup> Baltijos tyrimai Public Opinion Research. 2006. *Survey on Lithuanian Residents Knowledge of Judicial Institutions*. According to the survey, 59 % of respondents (15–74 years old) had not heard about the state guaranteed primary legal aid and 70 % were unaware of provisions for secondary legal aid.

<sup>179</sup> Ministry of Justice. *Annual Report 2006*. Nr. (1.40) – 7R – 2008. Vilnius: Ministry of Justice. 19 February 2007. In 2006, 35.277 criminal cases were registered, in which legal counsel was guaranteed to all suspects and defendants. Secondary legal aid concerned provision of services in 441 cases.

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