

Human Rights in Lithuania 2020 – 2021



Human Rights
Monitoring Institute

Human Rights in Lithuania 2020-2021

Overview

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The Human Rights Monitoring Institute (HRMI) is a non-governmental, non-profit human rights organization. Since our establishment in 2003, we have been striving for the national legislation and the practice of it's application to meet the international human rights obligations.

The team of HRMI lawyers as well as political, social and public health science experts conducts research, submits proposals for legal acts and policy documents, participates in working groups, prepares reports for international human rights monitoring institutions, undertakes cases before courts on strategic human rights issues, provides expert consultations, engages in various projects, and organizes conventional and distance trainings to representatives from public institutions and other specialists.

The main areas of activity of HRMI are human rights monitoring, analysis and education, the rights of victims of crime (by paying particular attention to the areas of domestic violence and hate crimes), and protection of human rights in the area of mental health.

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About us

Writing an introduction to a publication about human rights in the spring of 2022 is difficult. Very difficult. Russia's brutal war against Ukraine which shattered Europe's illusions of security from war seems to raise questions about the capability of human rights institutions in general. What kind of discussions on human rights can there even be when the international community is unable to neither stop the war nor ensure the protection of civilians, the wounded, and people with disabilities? When the aggressor's soldiers openly spit on any kind of norms or restrictions, and their dark lord rewards his units for raping, terrorizing and murdering people?

This is of course the initial emotional reaction, an outrage, despair, and a feeling of helplessness. And the best response to it is placing even greater importance on human rights, as well as patiently defending and cultivating them even more than ever before. Existentialist philosophers face the same challenge: although they have recognized the meaninglessness of life, they still encourage to live it to the fullest. And so we too have to admit: yes, human rights are sometimes grossly and terribly violated, but that is simply the reason why we must talk about and protect them as much as possible.

Therefore it is very good and very important that the initiative of the Human Rights Monitoring Institute's overview of human rights in Lithuania published every two years, which has been analysing and summarizing the situation of the implementation of human rights in Lithuania for nearly two decades, as well as assessing the most current state and prospects of the human rights situation in Lithuania, addressing the long-standing problems and promptly responding to new ones, does not stop even in these troubled and difficult times. A human rights defender once said during an interview (I quote from memory): "I know that the state does not like me. But I don't have to be liked by it, since I defend human rights, primarily those violated by the state itself". And indeed, protecting human rights is always an eternal conflict between the individual and the state, which is a natural and common thing. We saw this conflict when the wave of migrants orchestrated by the Belarusian dictator flooded Lithuania: some people talked about a hybrid war and the need to defend the state, while others pointed out that we are all human and we must help even those, who, after being deceived, are pushed from one border to another. Did we find the right balance?

I would like to once again repeat the cliché – the period overviewed in this publication is non-standard and unique. In addition to the aforementioned migrant crisis, there was also the COVID-19 pandemic which not only tested the reliability of the national health system, but also divided the public into those who trusted science and were willing to follow the rules for the sake of the common good, as well as those who were protesting against everything or putting their views above society. After a long break, we even had riots outside the Seimas Palace, which is also a test of the state's ability to comply with the human rights standards – although public institutions have the right to use force in order to prevent violations of public order, its use must comply with the set human rights standards.

It is important to remember that human rights are always more at risk in crisis situations, not only in the area of their daily application, but also in the general, alluring views that the interests of the state, particularly in terms of its security, are more important than any human rights. Radical movements always seek to take advantage of crisis situations by offering very simple answers to very complex questions. However, human rights issues are not simple and have never been so.

There was no shortage of challenges during the discussed period, and unfortunately there will be no shortage of them in the future. After all, human rights is a utopia that can never be fully achieved, because there will always be violations and restrictions. When talking seriously about respect for human rights, we are actually talking about a relative level assessment between that what we currently have and that what we would like to achieve.

Foreword

As before, this publication was produced by a team of authors, and human rights were reviewed according to certain categories, such as: freedom of expression, assembly and religion; personal data protection; reproductive rights and sex education; prohibition of discrimination; the right to a fair trial; the right to liberty; the right to a community life; deprivation and restriction of liberty; prohibition of violence; human trafficking and other forms of exploitation; migrant and refugee rights; right to health; social rights; and of course the impact of the COVID-19 pandemic on human rights and freedoms. I would also like to say a few additional words about another issue.

The publication shows that Lithuania's progress in the field of human rights is ambiguous. There are of course good examples, such as in the area of freedom of religion, where the long-standing dispute regarding the granting of state recognition to the old faith community "Romuva" seems to have been resolved. Attention was also drawn to the more favourable position of the Ministry of Health regarding reproductive rights; there was noticeable progress in the field of gender equality; appropriate decisions were finally made regarding the possibility for a person to write his or her name and surname in the original form in Latin letters; cases of unjustified detention as an application of pre-trial remand measure are becoming rarer; the act of stalking, which mostly affects victims of domestic violence, has been criminalized; and compulsory mediation in civil cases with recorded domestic violence has been abolished.

Unfortunately, many long-standing problems still remain, and some are even further exacerbated by ultra-conservative political powers, such as in the case of ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), and the rights of persons belonging to the LGBTQ+ community. Issues of the rights of people with disabilities and their integration have also caused a lot of sadness and concern, including the very slow institutional social care reform which not only does not provide persons with disabilities with the opportunity to integrate into society, but also turns them into additional hostages of dangerous situations (e.g., when care homes became places of the spread of the COVID-19 virus). Disappointingly, despite promises to ensure timely and convenient access to relevant information for journalists conducting investigations, there were major struggles over the past years regarding the availability of information relevant to the public – various bureaucratic obstacles still remained, while public institutions applied flawed practices limiting access to information of public importance. This also reflects shortcomings in the interpretation of personal data protection, where personal data protection was used as an excuse to cover up certain financial or political activities instead of protecting personal information.

A separate section was dedicated to the Covid-19 pandemic and the response to it. This issue has dominated (and still does in some places) the agendas of states for some time, and, although it is recognized that the restrictions established by the Government of the Republic of Lithuania which aimed to protect human health and human lives were lawful, reasonable and necessary, it was not always possible to ensure that such restrictions were proportionate and did not negate or excessively limit other values guaranteed by the Constitution (such as in the case where persons who came to Lithuania at the beginning of the pandemic were practically forced to live in unsuitable conditions). And there is also the discussion regarding the "opportunity passport".

Thus, in extraordinary times, challenges to human rights are also extraordinary. Does this mean that we should give up or not talk about certain human rights, as some politicians would like us to do? As I said before – of course not. On the contrary, it is necessary to talk about human rights constantly, everywhere and always. Because it is very easy to lose them, but very difficult to get them back.

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This publication would not have been possible without you.

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Summary

In cooperation with a number of authors, the Human Rights in Lithuania 2020–2021 overviews the implementation, challenges and positive changes in the essential civil rights and freedoms in Lithuania in 2020–2021. We have also continued the monitoring of the implementation of the “Right to Health” introduced in the previous issue, by paying particular attention to the right to health of stigmatized groups. This overview has included for the first time the issues of “Social Rights”, and, given the non-standard and unique period of 2020–2021, a separate section was dedicated to assessing the impact of the COVID-19 pandemic on human rights and freedoms.

Freedom of Expression, Assembly and Religion

Compared to the previous period under review, 2020–2021 had no significant legislative initiatives aimed at limiting the freedom of speech or the media, however the imposition of an extraordinary situation and the state of emergency in response to the migrant and refugee crisis led to particularly broad and intense restrictions on media work in the second half of 2021, which manifested both in legal regulation and in the practice of institutions. Even though there were legislative efforts to better ensure the freedom of expression and the media, e.g., by initiating a ban on strategic lawsuits and expanding the definition of a public figure, journalists continued to face bureaucratic obstacles and flawed institutional practices, limiting their access to information of public importance. Artists and protesters also faced restrictions on their freedom of expression, some of which can be seen as reasonable and properly balancing the freedom of expression and other important interests, while others as disproportionate with a possible deterrent effect on expression protected by law. Significant court decisions were also adopted, dealing with the fundamental issues of protecting the freedom of expression and information and balancing it with other public interests.

The period under review was characterized by a relatively high number of protests due to the restrictions imposed during the pandemic, and public discussions on the limits of freedom of assembly, especially after the rally that took place outside the Seimas in August 2021 turned into a riot. Although, after the quarantine was imposed, the freedom of assembly was formally restricted for some time, obliging people to not gather in groups larger than 5 people, and prohibiting organized gatherings of people in public areas, larger gatherings of a political nature (protests, rallies) were not prohibited in certain cases. Discussions were also caused by the attempt of the Kaunas city municipality to prevent the LGBTQ+ community from organizing a march on Kaunas Laisvės avenue, which the court recognized as unfounded. Vilnius city municipality also sought to restrict a different kind of gathering – a rally organized by the “Family March” in front of the Seimas, however the court recognized this decision of the municipality as insufficiently justified.

Data from the 2021 population census shows increasing religious diversity in Lithuania, however a public opinion survey conducted during the same year has revealed that the public attitudes towards certain religious minorities have become more negative. According to the Constitution, there is no state religion in Lithuania and freedom of religion is guaranteed. However, the case of the Romuva religious community seeking state recognition raised doubts regarding the state's neutrality towards different religions and the influence of the Roman Catholic Church on state institutions when addressing matters related to other religious communities. This raises questions regarding acceptance of religious diversity and ensuring the freedom of religion in Lithuania.

Personal Data Protection

The most significant violations of personal data protection in terms of the number of affected persons and the impact during the period in question were related to inadequate implementation of data security measures in the information systems of public and private companies. Although the extent of damage caused by these type of violations is often underestimated in society, the incident that took place in Vilnius City Municipality where the data of an adopted child's biological parents were unlawfully disclosed shows that a careless approach to data protection can lead to irreversible negative consequences and cause great moral damage to the affected persons. When assessing the effectiveness of the data protection monitoring carried out by the State Data Protection

Inspectorate and the Office of the Inspector of Journalist Ethics, cases were observed where two supervisory bodies assessed the same situation differently and provided conflicting interpretations of data protection regulations. During this period, cases concerning the relation between freedom of expression, the right to privacy and protection of personal data received a significant response in society. The analysed cases revealed that the fragmented application of the provisions of the General Data Protection Regulation and the Law on the Provision of Information to the Public arises not necessarily from inadequate legal regulation, but may also result from the formal approach of supervisory bodies and courts which not always corresponds with the standards of the European Court of Human Rights, as well as from the interpretation of provisions determined by such an approach.

Reproductive Rights and Sex Education

During the COVID-19 pandemic, a number of challenges arose in various areas of ensuring reproductive rights: pregnancy and childbirth, and in receiving reliable information or means of ensuring a safer sex life. It is likely that not all women were guaranteed the right to abortion. A research conducted during the period under review has revealed that a number of women who gave birth in Lithuanian hospitals felt unsafe and even abused in these institutions. Amendments to the Draft Law on Assisted Reproduction were also registered during this period. A more favourable position of the Ministry of Health regarding reproductive rights can be observed: the ministry has submitted a proposal for the legalization of unpaid surrogacy as well as stated that it has renewed discussions on the legalization of medical abortion. Increasing public pressure may have influenced the intensification of such discussions. However, there was a breakthrough only after hormonal coils were added to the list of reimbursed medicinal products for girls between 15 and 20 years of age, thus contributing to the reduction of early pregnancy cases. The right of pupils to sexuality education (Sex-Ed) is still not properly ensured: teachers lack the competence to implement Sex-Ed. According to experts, the subjects of early Sex-Ed, prevention of sexual violence and online activities of youth are particularly neglected in the field of Sex-Ed in Lithuania. A particularly prominent stance of conservative organizations toward sexuality education and its implementation, which has been fuelling public fears, has been observed during the COVID-19 pandemic.

Prohibition of Discrimination

The coronavirus pandemic during the period under review created challenges for the implementation of the right not to be discriminated against on the basis of age. During the COVID-19 pandemic, older people have had to face unjustified prohibitions and hostility both in their workplace and in accessing various services. Rapid development of digital technologies in the country during the pandemic and implementation of COVID-19 control measures also indirectly discriminated against older people. This deepened their social exclusion and isolation, had a negative impact on their mental health, and reduced their trust in society. At the same time, this health crisis revealed a certain civic maturity of the Lithuanian society. Public leaders showed vigilance and educated sensitivity by publicly protesting against attempts to apply population age restrictions as part of the pandemic control measures, and volunteer groups were mobilized to help socially isolated elderly citizens.

During the discussed period, particular attention was paid to the rights of LGBTQ+ people in the public sphere. Two LGBTQ+ community marches were held – Vilnius Pride in 2020, and Kaunas Pride which was organized for the first time in Kaunas in 2021. Several parties were elected to the Seimas in 2020, which included certain LGBTQ+ rights issues in their electoral programs. However, no laws were passed to improve the legal status of the LGBTQ+ community during the period under review. This may also have been influenced by the active mobilization of reactionary movements and politicians who were against the LGBTQ+ rights. The draft law on gender-neutral partnerships was rejected at its submission stage and returned for revision, while the draft law on legal recognition of gender identity was not submitted for consideration at all. The attempt to include gender identity among protected characteristics in the Criminal Code and the Code of Administrative Offences was also unsuccessful. However, there have been some positive developments in the field of LGBTQ+

rights during the discussed period. The judgment of the European Court of Human Rights in the case *Beizaras and Levickas v. Lithuania* prompted Lithuanian law enforcement institutions to make systemic changes which would make it possible to fight against hate speech more effectively. Discriminatory restrictions on transgender persons to occupy certain legal positions have been removed, and, at the end of December 2021, the Minister of Justice signed an order allowing transgender persons to change their personal names via an administrative procedure.

Lithuania's progress in the field of gender equality has been quite noticeable over the past two years, after the country rose to the 20th position out of 23 in the European Gender Equality Index. However, positive changes have occurred due to the individual efforts of women and not due to the systematic and consistent work of the government and other institutions in the field of gender equality, which does not guarantee sustainable long-term results. Lithuania is at the bottom of the list compared to other EU countries in the area of balancing work and family life. Women in Lithuania still typically earn less than men, particularly in the age group of women between 29 and 39 years old, when they drop out of the labour market or put their careers on hold after having children. Wage gaps are affected by the still evident division of jobs or roles into "men's" and "women's". Women are more likely to have "less important", non-prestigious jobs and are more likely to work in flexible, non-primary labour markets. The COVID-19 pandemic had the greatest impact on areas with the highest female employment rates. Cultural norms related to traditional gender roles and gender stereotypes are still widespread in our society, hindering the implementation of gender equality provisions and behaviour models.

In 2021, the number of complaints received and consultations provided at the Office of the Equal Opportunities Ombudsperson regarding possible disability discrimination was the highest compared to other types of discrimination, i.e. gender or age discrimination. The results of the 2020 opinion survey of the country's population show that the most discriminated social group in Lithuania is considered to be "persons with intellectual or mental disabilities" and "persons with physical disabilities", and the environment in which persons with disabilities are possibly discriminated against the most is the labour market. A relevant issue is that although the Law on Equal Opportunities obliges employers to take appropriate measures to create conditions for people with disabilities to obtain employment, work, pursue a career or learning, including appropriate adjustment of facilities and other conditions, lack of such adjustment is still not defined as a separate form of disability discrimination. Restricted rights of people with disabilities caused by the restrictions imposed by the COVID-19 pandemic became particularly apparent in 2020 and 2021. People with disabilities had limited access to healthcare services and were subject to unreasonable demands to wear face masks in public regardless of the declared exceptions.

The most significant change in legal regulation that affected the situation of national minorities in Lithuania was the Law on the Spelling of the Name and Surname in Documents adopted at the beginning of 2022, which included the right to write the names and surnames in the personal documents of citizens of the Republic of Lithuania of non-Lithuanian nationality in the Latin alphabet (without diacritics). Another legal act important to national minorities is the Law on National Minorities, which was drawn up by a working group at the beginning of 2021, but was not considered by the Seimas. There were important changes in Vilnius in the area of integration of the Roma – the last houses of the Kirtimai Tabor settlement were demolished in May of 2020, and the new Vilnius Roma Integration Programme 2020-2023 was approved in August, marking a breakthrough in the field of social integration of the Roma. Unlike in the previous Roma integration programmes in Vilnius, focus was placed on the development of areas of education, social services, health and housing instead of crime prevention and funding of police. However implementation of the programme in the first two years was characterized by somewhat uneven financing and inefficiency of some of the planned measures (mainly in the area of housing). Lack of political will to consistently address the issue of Roma integration was observed at the state level – the new state action plan for the integration of Roma people into Lithuanian society was not yet approved by December 2021, while the old one expired at the end of 2020.

During the period under review, Lithuanian state institutions and agencies took positive steps to achieve a more effective response to hate crimes and hate speech, from building the capacities of law enforcement officers to strengthening inter-institutional cooperation and cooperation with non-governmental organizations. The judgment of the European Court of Human Rights in the case *Beizaras and Levickas v. Lithuania* at the beginning of 2020 regarding inaction of law enforcement

authorities in terms of homophobic comments on Facebook has contributed to the positive changes. The years 2020–2021 were also marked by numerous initiatives of non-governmental organizations, mostly related to raising public awareness. However, the proposal of the Ministry of Justice to partially decriminalize hate speech in early 2021 and provide for administrative liability for it was withdrawn due to public outrage, even though it was supported by law enforcement institutions and non-governmental organizations. Although, during the period under review, law enforcement authorities registered 2–3 times more cases of incitement of hatred than in 2018–2019, these figures hardly reflect the true extent of the prevalence of such criminal offences. There is also the problematic fact that, although introduced in theory, the concepts of hate speech and hate crime are still not distinguished by law enforcement institutions and courts.

Right to a Fair Trial

Poor quality state-funded legal aid, which threatens the fairness of the criminal procedure, remains one of the key problems of the right to defence of persons suspected of criminal offenses. Additional challenges to the provision of legal aid were also caused by criminal proceedings being conducted remotely due to the COVID-19 pandemic, making it difficult for the lawyer and the defendant to communicate. The possibilities of using legal aid are also limited by amendments to the Code of Criminal Procedure adopted in 2020, which provide for the recovery of costs of state-funded legal aid from a suspect who is found guilty. Asylum seekers and migrants detained in Lithuania also faced an obvious and unjustified restriction of their right to defence due to having limited access to information and not being able to communicate with a lawyer after a state of emergency was declared by the Seimas in November of 2021. However, this regulation was amended a month later.

A legal framework for support to victims of crime was established in Lithuania in 2021. However, the adopted legal acts have certain shortcomings – support systems for victims of domestic violence and victims of human trafficking which have been operating under different legal acts were not suitably integrated into the developed general system of support to victims of crime. In addition, during the period under review, there was a lack of planning in the allocation of state budget resources for the victim support system. Although the legal acts adopted in 2021 established a very positive standard – the obligation of first contact institutions (social services, education, healthcare and other institutions) to help victims of crime receive appropriate support, in practice no attention was paid to the implementation of this standard.

Right to Liberty

In 2020–2021, the number of suspects subject to pre-trial detention continued to decrease: compared to 2019, the number of detention cases decreased by almost a third in 2021, and by almost 90 percent over the past decade (from 2012 to 2021). Since the courts satisfy the vast majority of requests for application or extension of detention, such tendencies indicate that the necessity to use this measure is responsibly assessed before requesting for it. At the same time, the declining use of detention makes it possible to talk about a significant change in strengthening the guarantees of personal liberty in the pre-trial investigation process. It is likely that amendments to the Code of Criminal Procedure adopted in 2021 will also contribute to the strengthening of these guarantees, enabling to more easily grant bail as an alternative measure.

According to the involuntary hospitalization monitoring data, 608 cases of such hospitalization were recorded in Lithuania in 2020, and 504 such cases were recorded over 11 months of 2021. However, it was found that, when submitting reports to the Ministry of Health (hereinafter – Ministry), these reports did not include cases where patients were involuntarily hospitalized for up to 3 working days without applying to court for involuntary hospitalization. This suggests that these numbers will increase and come closer to the actual extent of involuntary hospitalization cases after the monitoring procedure will be revised by the Ministry in the future. The VXIII Government Programme promised, for the first time in history, to pay special attention to identifying human rights violations in the field of mental health care. It is expected that the implementation of the programme will lead to the development of

human rights-based community, person-oriented and psychosocial services in the country in order to reduce the extent of involuntary hospitalization and involuntary treatment cases. Coercive medical measures under Art. 98 of the Criminal Code were imposed on 329 people by December of 2021. It is scandalous that there are cases where the courts also imposed these measures on children. Following the initiative of the Council of Europe to regulate the additional protocol of the Convention on Human Rights and Biomedicine (Oviedo Convention), which does not comply with the provisions of the UN Convention on the Rights of Persons with Disabilities and establishes the use of coercive measures in psychiatry, Lithuanian organizations and experts working in the field of human rights have repeatedly appealed to national decision-makers, asking them not to approve the adoption of the additional protocol.

Right to Live in a Community

Since 2010, Lithuania has ratified the United Nations Convention on the Rights of Persons with Disabilities and is committed to ensuring that persons with disabilities in the country would not be forced to live in a specific living environment assigned to them by the state. The institutional social care reform has been underway since 2014, however, according to the data of the Ministry of Social Security and Labour, in 2020–2021 approximately 6,000 adults with disabilities (mostly with intellectual and/or psychosocial disabilities) were still living in large segregated institutions – social care homes. Despite the development and expansion of the community service infrastructure, there are still queues of people waiting to receive accommodation in these institutions. New persons of working age with intellectual and/or psychosocial disabilities or mental health disorders will no longer be accepted for institutional long-term social care in any social care institutions (care units of institutionalized type) whose owner rights and obligations are implemented by the ministry only as of 2030. In 2020–2021, flaws in social care institutions and the system were revealed not only by the fact that social care homes became sources of infection during the COVID-19 pandemic, but also by the fact that gross violations of human rights were recorded in several institutions, which can even be considered as amounting to torture.

Deprivation and Restriction of Liberty

The number of prisoners in Lithuania has decreased during the period under review, however ensuring human rights in prisons continued to be a serious issue. Long prison sentences, poor conditions of imprisonment, violence, lack of employment, large amounts of illegal items, including drugs, health problems due to addictions and poor living conditions, infrequent accommodation of prisoners in open-type institutions and rare short-term outings, as well as poor psychosocial atmosphere distinguishes the prison system in Lithuania from modern international imprisonment standards. Prisoners' councils, the socialization reform concept, and initiatives to create an effective strategy for the reform of the prison system are good examples, however they do not yet have a fundamental impact on the necessary changes in this system.

Compared to previous years, public institutions paid more attention to the resocialization of convicted persons during the analysed period with the approval of a description of social integration of persons released from imprisonment, approval of a resocialization concept, employment of social workers in the prison system, more active cooperation with non-governmental organizations and volunteers, and registration of counts of recidivism after a person is released from prison.

At the end of 2021, 15 children lived in three children's socialisation centres (hereinafter – CSCs) operating in Lithuania. Children experiencing socialisation challenges are sent to CSCs only in exceptional cases, aiming to exhaust minimum supervision measures before that, however such support is ineffective due to lack of specialized integrated psychosocial services. It is recognized that the methodological centres for helping children with emotional and behavioural disorders are weak and require fundamental qualitative and systemic changes. Main investments are focused on improving CSC infrastructure instead of developing soft systemic measures. Children with socialisation challenges and behavioural and emotional difficulties need intensive, integrated psychosocial support instead of educational measures provided by CSCs.

Prohibition of Violence

In recent years, there has been an increase in the number of reports of domestic violence registered with the police, however the number of registered criminal offences is decreasing. According to experts, this does not mean that the situation is improving. On the contrary – official statistics do not reflect reality, and domestic violence remains a latent phenomenon. Important amendments to the laws were adopted during the discussed period – mandatory mediation was abolished in civil cases with recorded domestic violence, and stalking behaviour was criminalized. In addition, a new version of the law was registered in the Seimas, introducing a protection order against violence and paying more attention to education and prevention. However, there was no progress in the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence during the period under review. The political process got stuck due to the different and sometimes incorrect understanding of provisions of the Convention, especially related to the concept of social gender. The COVID-19 pandemic has further highlighted the scale of domestic violence and the lack of a support system in Lithuania. Fluctuations in reports of possible violence were observed during both the first and second quarantines, with the number of reports increasing by as much as 20%. For this reason, public institutions had to pay more attention to domestic violence – in cooperation with other institutions, the Ministry of the Interior prepared and approved a plan of measures for the prevention of domestic violence during quarantine declared due to the COVID-19 pandemic, which, among other things, provides the possibility to call for help via SMS message sent to the emergency number 112.

The topic of violence against women figured prominently in the public sphere of Lithuania in 2020–2021, especially in the context of debates on the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (also known as the Istanbul Convention). However, the representation and analysis of this phenomenon often lacked a responsible approach after articles published in the media escalated negative public attitudes towards women who experience violence, thus contributing to the stigmatization of these experiences in the public sphere. Public opinion surveys conducted during this period also confirmed prevailing gender stereotypes in the society. Statistics show that the first year of the COVID-19 pandemic in the world and in Lithuania was marked by an increased number of cases of violence against women, however it is difficult to assess the actual extent of prevalence of various forms of violence due to lack of research and data in this area.

Compared to previous years, registered cases of violence and possible violence against children have decreased nearly two times during the period under review. Children typically experience violence from adults in their close environment, therefore, due to the fact that children did not go to school, medical institutions and social clubs during the COVID -19 pandemic, it is likely that a large number of cases did not come to the attention of appropriate authorities. Because children studied from home, it was much more difficult for them to report that they have been abused by a family member, which highlights the need to actively raise awareness among the public and to encourage people to report straightaway a witnessed or suspected case of violence to the authorities. Whereas institutions should look for proactive ways to reach children and to create and develop safe, easily accessible, confidential and widely known channels where children, their parents, carers and other persons could report violence, thus ensuring the protection of a child and provision of necessary support.

Human Trafficking and Other Forms of Exploitation

Various specialist and public education initiatives related to human trafficking continued to be implemented in Lithuania in 2020–2021, and the fight against human trafficking is increasingly perceived as an area of inter-institutional cooperation. In Lithuania, the absolute majority of pre-trial investigations into human trafficking involve exploitation for criminal purposes. There was also an increase in the number of pre-trial investigations into forced labour exploitation in 2020–2021. Although the number of workers coming to Lithuania from non-EU countries is increasing every year, and we hear about cases of exploitation of these people on social media, the state's efforts to prevent employee exploitation and ensure the rights of victims remain insufficient. At the same

time, it is important to expand (implement) the range of services that would meet the needs of all (potential) victims of human trafficking: ensure healthcare and translation services, high quality legal assistance, the possibility for victims to receive compensation, etc. Despite the fact that actions to combat human trafficking in Lithuania are coordinated at ministry and local government levels, there is still no approach that would focus on victims instead of the system itself.

Migrant and Refugee Rights

Significant changes in migration trends were observed in Lithuania over the past years with decreasing emigration and increasing immigration from non-EU countries. It was observed that the said changes are also related to changes in the country's migration policy. One of the biggest challenges that Lithuania has faced during the period reviewed in this report was the political crisis in Belarus, which led to an increased flow of Belarusian citizens coming to Lithuania to escape the regime, repressions or persecution. This situation has revealed that, in contrast to our country's response to the increased flows of migrants illegally crossing the border in 2021, with political will, we are able to be an open country that can help people in a crisis situation. However, the opportunity given to Belarusian citizens to come to Lithuania through the humanitarian corridor, and the applied exceptions for employment do not guarantee successful integration. The experiences of Belarusian citizens trying to build their lives in Lithuania reveal the difficulties that these people face regarding the availability of services and requirements that create a complex employment process. Other groups of migrants also faced similar problems: as shown by international studies, in practice there are still more obstacles than opportunities for the integration of foreigners. The systemic challenges of the integration of citizens of foreign countries were also revealed by measures applied to overcome the COVID-19 pandemic, which in some cases resulted in even greater vulnerability of these people.

The number of asylum seekers was relatively small in 2020, and the most important change related to the rights of asylum seekers was the possibility for them to work, if these persons have not yet received a decision from the Migration Department regarding granting asylum in the Republic of Lithuania within 6 months from the date of submission of the asylum application. In contrast, there were a lot of changes in 2021, most of which are related to the increased number of people irregularly crossing the Lithuania-Belarus border and the response to this situation. The rights of asylum seekers were significantly restricted during the discussed period with the imposition of so-called "returns", the mass *de facto* detention of asylum seekers, including minors, and the restricted right to an effective appeal. Lithuania was criticized by international organizations for applying these measures.

Right to Health

COVID-19 pandemic control measures had the most significant impact on the implementation of the right to health during the discussed period. The pandemic has exposed the public health crisis not only as a health crisis of the population, but also as a health policy and institutional crisis, which manifested as distrust in state institutions, lack of experts and increased cases of avoidable excess mortality. The COVID-19 pandemic has acted as a test to measure the resilience of the healthcare system to crisis situations, its flexibility and sustainability in crisis conditions, and capabilities to restore pre-pandemic healthcare service delivery flows that were not addressed. Lack of sustainability of the healthcare system during the pandemic affected vulnerable persons and regions the most and highlighted the existing social inequalities in the healthcare system. During the discussed period, the 18th Government of Lithuania demonstrated its political will in the field of mental health, and committed to making fundamental changes in the mental health system, including developing new effective services and paying particular attention to the protection of human rights. The year 2021 saw the first attempts to implement these and other objectives, and to overcome the resistance of the existing system and its supporters.

In 2020, 139 new HIV cases were recorded in Lithuania. According to the aim of the United Nations AIDS Programme to curb the spread of HIV, by 2020, 90% of all people living with HIV should be aware of their diagnosis, 90% of diagnosed persons should be treated, and 90% of treated persons

should have undetectable levels of the virus in their blood (i.e. they would no longer transmit the virus to others). In Lithuania, the implementation of these objectives in 2019 corresponded to 83–43–91 percent, respectively. HIV-infected persons in Lithuania can be treated immediately, as soon as HIV is diagnosed, and the treatment itself is free of charge. However, the stigma of an HIV diagnosis, discrimination experienced by HIV-infected people, insufficient communication accessibility of healthcare services, and complicated bureaucratic obstacles still prevent individuals from getting the necessary treatment and social support.

An average of about 2,300 persons are sentenced annually in Lithuania for the illegal possession of narcotic substances without the intent to distribute them, by imposing the strictest – criminal – liability on them. According to the World Health Organization, one of the most effective ways to deal with problems related to consumption is decriminalization of possession of small quantities of narcotic substances without the intent to distribute them, and application of alternatives to punishments. However, the Seimas did not approve the decriminalization projects at their adoption stage in 2021. Individuals continue to be punished with the imposition of the strictest liability, and, after being sent to prisons in Lithuania, those addicted to psychoactive substances face the problem of lack of availability and continuity of addiction treatment.

Social Rights

Consolidation of social rights is a necessary condition for ensuring human dignity. They include the right to housing, food, education, healthcare as well as appropriate social security, guaranteeing an adequate standard of living for every citizen. However, the indicators of poverty in Lithuania show that the right to live with dignity is not guaranteed for all Lithuanians. In 2020, 20.9% of Lithuanians lived below the poverty line, which was one of the highest indicators in the European Union. Poverty reduction is greatly influenced by social security, which can ensure a dignified standard of living in the face of various risks, when a person cannot do this on his or her own. However, the financing of social security in Lithuania is particularly low. This in turn leads to a low capacity to finance social benefits and public services, and to a limited impact on reducing poverty, exclusion and inequality. Among other things, people living in poverty also often face institutional challenges that limit the availability of social support. The COVID-19 pandemic has only highlighted the long-term problems of social security, and caused the greatest negative consequences for the country's most vulnerable population.

Impact of the COVID-19 Pandemic on Human Rights and Freedoms

Very few areas of daily life remained untouched by the COVID-19 pandemic that began in the spring of 2020 and continued into 2021. Measures taken by countries to control the spread of the coronavirus and to protect public health as well as human life have inevitably limited other human rights and freedoms. Restrictions on movement, freedom of economic activity, provision of healthcare services, right to education, inviolability of private life and other restrictions were applied in Lithuania during the period under review in order to prevent the spread of the coronavirus. The scope and extent of the restrictions and the stringency of applied measures enable to reasonably state the unprecedented nature of the situation caused by the pandemic. There are no doubts regarding the lawfulness and reasonableness of the goal to protect the health and lives of people via the imposed restrictions. Nevertheless, when applying restrictions on human rights and freedoms, other conditions arising from the Constitution must also be observed – restrictions should be established by law, applied only when necessary, and they should be proportionate, i.e. should not restrict human rights and freedoms more than is necessary to achieve a legitimate goal, and should not deny the very essence of human rights or freedoms. Even though the Government has immediately responded to the health-threatening situation by establishing certain measures restricting human rights and freedoms in order to prevent the spread of the coronavirus, it did not always manage to ensure the lawfulness of such restrictions, and that such restrictions would not negate or excessively limit other values guaranteed by the Constitution.

Freedom of Expression and the Media

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Freedom of Expression and the Media

Mėta Adutavičiūtė

Compared to the previous period under review, 2020–2021 had no significant legislative initiatives aimed at limiting the freedom of speech or the media, however the declaration of an extraordinary situation and a state of emergency in response to the migrant and refugee crisis led to particularly broad and intense restrictions on media work in the second half of 2021, which manifested both in legal regulation and in the practice of state institutions. Even though there were legislative efforts to better ensure the freedom of expression and the media, e.g., by initiating a ban on strategic lawsuits and expanding the definition of a public figure, journalists continued to face bureaucratic obstacles and flawed institutional practices, limiting their access to information of public importance. Artists and protesters also faced restrictions on their freedom of expression, some of which can be seen as reasonable and properly balancing the freedom of expression and other important interests, while others as disproportionate with a possible deterrent effect on expression protected by law. Significant court decisions were also adopted, dealing with the fundamental issues of protecting the freedom of expression and information and balancing it with other public interests.

Freedom of Expression

On 10 June 2020, the police launched 9 investigations relating to the anti-racism protest that took place in Vilnius, which was prompted by the death of African American George Floyd in the United States after a police officer used disproportionate force against him. The death of George Floyd was widely covered by the media around the world. One of the investigations launched due to violations of administrative law were based on a poster carried by protesters with the words “Fuck the Police”. The Lithuanian Police Commissioner General had a negative opinion about this poster, saying that he was not against people “(...) expressing their beliefs peacefully and reasonably, however epithets that insult institutions or specific officers cannot be used in any way (...)”.¹ However, based on the practice of the European Court of Human Rights (ECtHR), the European Convention on Human Rights and Fundamental Freedoms (ECHR, Convention) also protects self-expression expressed in a more provocative form which can offend and shock some people; in addition, the freedom of criticism of state institutions, which is also guaranteed by the Constitution of Lithuania, establishes the broad limits of such criticism. The application of sanctions would not be considered an unreasonable restriction of self-expression if specific public officials or officers suffer from insults and verbal attacks while performing their public functions properly.² In this case, the protest was peaceful and the poster’s message was directed at the police as an institution in general, in protest against the disproportionate use of force by the US police; as mentioned above, such self-expression is protected by the Convention.

Important issues in terms of balance between the freedom of expression and the rights of other persons were addressed in the so-called Zero Live Show advertising case. On 27 April 2021, the final ruling of the Supreme Court of Lithuania (SCL) upheld the verdict under which director Emilis Vėlyvis and actors Mindaugas Papinigis and Arūnas Storpirstis were convicted of disrupting church services in the town of Turgeliai during which they carried out a public performance promoting a commercial event.³ The defendants in this case relied on the freedom of artistic expression, stating that their performance in the church was an artistic act that also had a political message, i.e. criticism of the Church regarding cases of sexual abuse against children. However, the court was not convinced by such arguments. In the opinion of the court, the defendants’ aim was to promote a commercial show (people were invited to come to the Zero Live Show) and their performance did not reflect the purpose stated by the defendants – to provoke a public debate. Nevertheless, the SCL has concluded that even if “there was such an aim, given the chosen time and place, its implementation was not proportionate in terms of violation of the constitutional rights of other people”.⁴ While examining the case, the SCL has also taken into account the day of the event – Assumption Day – which is significant to the religious community, as well as the fact that such actions were carried out in an area inhabited

by the Polish national minority, which has deep religious traditions. When assessing this decision, it should be noted that, in the context of the ECHR, states enjoy a wider margin of appreciation in regulating commercial self-expression and self-expression that may offend the feelings of religious people.⁵ In the practice of the ECtHR, it is also taken into account whether specific expression was unnecessarily offensive to the feelings of believers. The overall arguments and reasons supporting the decision of the SCL show that the actions of the director and the actors were considered by the court as such⁶, and the application of liability was recognized as reasonable in this case.

There were also other issues regarding the balance between artistic expression and public interests during the period under review, however, in the cases discussed below, the prohibition of artistic expression or the attempt to apply sanctions for it can be regarded as a flawed practice, restricting protected self-expression without justification or even without a legal basis.

In February 2021, based on the complaint of the Lithuanian Nationalist and Republican Union, the police has launched a pre-trial investigation against the artist Dainius Liškevičius for desecrating a state symbol – the country's flag.⁷ The subject of the investigation was the video performance "Kliksas / Restartas" created by the artist in 2000, in which the artist wipes his chocolate-stained face on the flag of Lithuania. According to D. Liškevičius, the video performance talked about the civic foundation of the state, the limits of patriotism and its perception, as well as openness to racial, cultural and other diversity.⁸ The Lithuanian artists' community expressed its outrage at the launched pre-trial investigation, viewing it as a threat to the constitutional freedom of expression; according to the community, "such indictment not only causes psychological and financial damage to the artist himself, but also to the entire art system in Lithuania", and control and censorship of artistic content is a sign of a totalitarian system.⁹ On 23 June 2021, the prosecutor's office terminated the investigation citing the expiration of the statute of limitations.¹⁰ However, there are reasonable doubts as to whether such an investigation should have been terminated on a different ground, i.e. due to the fact that no act having the characteristics of a crime or misdemeanour has been committed (p. 1 of Art. 3(1) of the Criminal Code), since the prosecutor's decision may give the impression that, if the statute of limitations had not expired, the investigation could be continued, even though the overall circumstances indicate that criminal proceedings based on p. 1 of Art. 3(1) of the Criminal Code were not possible in this case. It is important to note that, in the context of freedom of expression, launching of a pre-trial investigation may in itself have a deterrent, negative effect on freedom of expression, as well as create a sense of insecurity, not to mention the consequences of such an investigation for a particular person. Therefore, in this case, there was a lack of a clear legal assessment regarding the impossibility of criminal proceedings in such a case.

Freedom of artistic expression was also restricted by Vilnius Municipality Administration, which permitted the artists Eglė Grėbliauskaitė and Agnė Gintalaitė to organize their artistic project "Let's Not Forget to Forget. A Performance of Everyday Life" in Petras Cvirka Square, but decided to prohibit the event later on.¹¹ In response to the ongoing public debate on the monument of P. Cvirka, after the municipality has already made a decision to remove it, the artists covered P. Cvirka's sculpture with decorative moss and planned a month-long event, during which they would interactively involve passers-by in their creative initiative. Based on the decision of the Event Coordination Commission of the Municipality Administration, the artists were not allowed to set up their installations and organize their event due to "the uniqueness and historical significance of the area"¹². According to A. Gintalaitė, the Vice-Mayor of Vilnius Valdas Benkuskas called the artists' initiative a circus, hooliganism and foolery¹³, stating that "these are exclusive objects and certain actions cannot be performed on monuments in the city. If such a precedent were to be set, we would have an endless practice and who knows how this would end"¹⁴. However, such decision of the Municipality Administration lacks arguments and reasons why the uniqueness and historical significance of the area became the grounds for banning the event, since these factors can actually be important and give meaning to artistic expression in a specific area. All the more so because, according to the artists, the performance was intended to "reconcile and calm people down" in response to the various opinions and moods of the public regarding the removal of P. Cvirka's monument. The municipality's decision also does not show any legal basis for such a decision. The Vice-Mayor's position also lacked strong motives and arguments, instead of which he used a rhetoric that marginalized the artists. The argument that such actions cannot be carried out on monuments in the city is also not valid, since various actions and performances involving monuments have taken place several times before. For example, the Monument of Žemaitė was covered with the flag of the LGBTQ+ community during the Baltic Pride

festival held in Vilnius, various sculptures and monuments in the city were decorated with yellow accessories in support of the music group “The Roop” at the Eurovision Song Contest, etc. Therefore, given all of these circumstances, it can be concluded that the freedom of expression of the artists was restricted disproportionately, without a legal basis, and without offering any alternatives, for example, to shorten the duration of the event, etc.

The protests of people who were against the opportunity passports also caused discussions about the limits of freedom of expression in the society. There were reasonable doubts as to whether the Holocaust symbolism used in the protests and the comparison of the Holocaust with the quarantine and the application of opportunity passports did not exceed the limits of freedom of expression and may be viewed as belittling and distorting the Holocaust. Such actions of the protesters were widely condemned.¹⁵

In the protest against opportunity passports held on 16 October 2021, its organizer Asta Astrauskaitė addressed the rally participants with the following words: “If we cannot take it peacefully, we will use force. This was said by the defender of the parliament, who participated in the battles with foreigners, with the communist Russian army in the time of occupation. If you are not afraid of us, peaceful people, perhaps you will wake up when you see a weapon? I am once again asking the honest general of the Lithuanian Armed Forces – if they will not listen to the people, make a military coup and take the homeland of Lithuania into your own hands! Temporarily, until the people’s tribunal punishes the traitors. After that we will know ourselves how to take care of our home, our homeland, Lithuania”¹⁶. On 18 October, a pre-trial investigation was launched against A. Astrauskaitė regarding her public incitement to breach the sovereignty of the Republic of Lithuania with violence (Art. 122 of the Criminal Code) – to change its constitutional order and to overthrow its legitimate government.

In March of 2021, by commission of the Human Rights Monitoring Institute (HRMI), Spinter Research has conducted a public survey on the question: “Do you feel that you can express your thoughts freely in Lithuania without censorship and interference by state institutions?” As many as 44% of respondents answered “No”.¹⁷ And as many as 44% of respondents disagreed with the statement that the right to freely criticize the work of government officials and state institutions is ensured in Lithuania. The survey also revealed a rather strong perception of the freedom of expression among the respondents – 58% of them disagreed with the statement that publicly expressed opinions and ideas should not contradict the opinions and values of the majority of the society. Strong disapproval was also expressed regarding prohibited self-expression – 89% of respondents believed that self-expression should be restricted if it incites violence and physical abuse against another person or group of people, 75% – if it incites hate against immigrants.

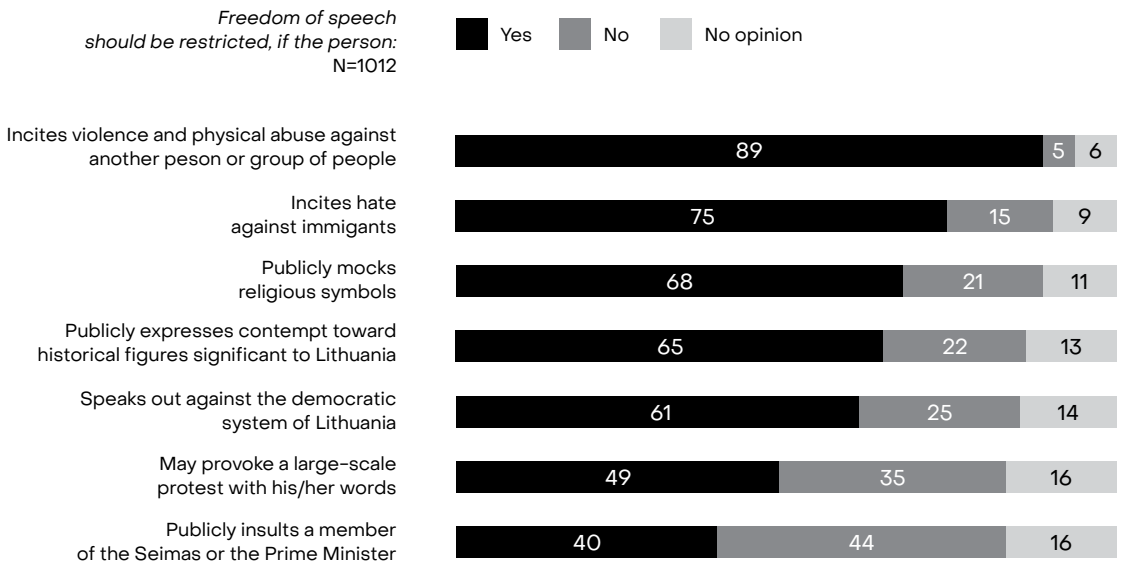


Figure 1. Opinions on restriction of freedom of speech in specific situations (%).

However, the fact that so many people do not feel that freedom of expression is adequately ensured in Lithuania, and the fact that this opinion is particularly expressed among the youngest age group (18–29 years, 49.6%), those who have primary or secondary education (52.1%), those with the lowest-income (54.1%) and those belonging to the Russian national minority (54.7%) (place of residence has practically no influence) presupposes that part of the society does not feel heard or able to freely express their thoughts, thus further research and analysis of the reasons why people feel this way are necessary to draw guidelines for solving this problem.

Freedom of the Media

On 25 September 2020, the 15min news portal appealed to the court regarding the warning issued by the State Consumer Rights Protection Authority (SCRPA) in relation to the advertisement of the book “Kabinetas 339” prepared and published by 15min journalists about the then Prime Minister Saulius Skvernelis, in which his name and surname were used without the consent of S. Skvernelis himself.¹⁸ SCRPA argued that the Law on Advertising does not distinguish between a public figure and private person when a person’s name and surname are used in advertising; according to SCRPA, in any case, such data can only be used with the consent of the natural person.¹⁹ On 12 March 2021, the Vilnius Regional Administrative Court made a decision to annul the part of the SCRPA’s resolution under which the warning was issued.²⁰ The court has found that, in applying the provision of the Law on Advertising, the SCRPA has followed the linguistic interpretation of this provision and did not consider its application in the context of other legal standards and principles. Noting the importance of freedom of expression and the media in a democratic society and the right of the media to disseminate information related to the public interest, the court has concluded that, given the fact that information was used about one of the country’s highest officials – a person with the status of a public figure, the SCRPA should have specified other values and interests that would justify the restriction of the discussed freedoms in this situation. According to the court, the SCRPA did not substantiate that the Prime Minister’s privacy was violated, since the fact that he was Prime Minister at the time was common knowledge; in addition, the book “raised relevant issues related to democracy and its state, which are clearly attributable to the public sphere of discussion (discourse). There were no discussions on the private life of the person”. Therefore, the court has concluded that the SCRPA has unjustifiably determined that privacy was interfered with to the extent which would allow for restriction of freedom of expression. This court decision is also important in that it reminds the authorities supervising the implementation of laws about their duty to examine individual cases, including those related to freedom of expression, and to assess relevant private and public interests and values in the context of other legal standards and principles in order to properly balance them out.

In order to protect journalists, disseminators of public information and other entities operating in the field of public interest from strategic lawsuits or other litigation aimed at censoring the dissemination of information of public importance, and after consulting with stakeholders and experts, the Ministry of Justice prepared amendments to the Code of Civil Procedure (CCP) and the Criminal Code (CrC).²¹ The proposed amendments to the CCP aim to establish an efficient procedure for assessing the preliminary validity of a claim, allowing an unfounded claim filed in bad faith to be left unexamined at the initial stage of the process, as well as providing for the right to appeal against such a dismissal. The proposed amendments to the CrC aimed to limit the possibility of applying criminal liability for defamation by proposing to decriminalize dissemination of false information about another person that may disparage or humiliate that person or undermine trust in him. It was also proposed to provide for more lenient sentence for defamation where an allegation is made that a person has committed a serious or very serious crime, or defamation through public information means. On 28 September 2021, Members of the Seimas registered the updated draft amendments to the CCP and CrC regulating Strategic Lawsuits (SLAPPs) and defamation.²² The updated drafts show that it is proposed to waive criminal liability for dissemination of false information about another person that may disparage or humiliate that person or undermine trust in him, however the said liability shall apply if such information is disseminated through public information means; criminal liability for defamation where an allegation is made that a person has committed a serious or very serious crime shall also apply. When considering these drafts from the perspective of freedom of expression and the media, various international organizations such as the Council of Europe and the Organization for Security and Co-operation in Europe encourage Member States to decriminalize defamation, ensuring the possibility of filing a civil claim to defend against defamation, by taking into account the fact that laws criminalizing defamation are often wrongfully used by politicians and other public figures against the media or journalists criticizing them.

The case of the Atvira Klaipėda news portal sparked a discussion about the possibilities of journalists to publicize the questionable connections of politicians and civil servants. On 6 October 2021, the Supreme Administrative Court of Lithuania rejected the appeal of Atvira Klaipėda regarding the resolution of the Office of the Inspector of Journalist Ethics under which the portal that published information on the public procurements of the Klaipėda City Municipality–managed company “Gatvių Apšvietimas” and the persons related to it was found to have violated the General Data Protection Regulation.²³ According to the judicial panel, the purpose of the publication could have been achieved without disclosing any personal data.²⁴ In November 2021, the process was renewed upon the motion of the chairman of SACL. On 3 February 2022, SACL has announced a new decision in which the extended judicial panel of SACL ruled that the portal could publicly disclose the family relations of the politician–owner of the company managed by the municipality, which is regularly successful in public procurements, with persons working for the contracting authority.²⁵ SACL has assessed the applicant’s legitimate interest (i.e. freedom of expression and freedom of information) and the necessity of the extent of the published information in contributing to the public interest debate related to the appropriate use of public finances, and has finally considered the balance of interests that must be determined in such situations.²⁶ SACL concluded that the relations of a natural person with public resources revealed in the publication are considered information that has significance to public affairs, and the owner of the company is considered to be a public figure in this context.²⁷

Prior to the latest decision of SACL in this case and in response to the case of Atvira Klaipėda, amendments to the Law on the Provision of Information to the Public were adopted on 23 December 2021, clarifying and expanding the definition of a public figure.²⁸ The following are considered to be significant changes: clarification that a state or municipal official, civil servant, or person working in a state or municipal institution under an employment contract is considered a public figure, *provided that his decisions or activities affect society* [highlighted by author]; manager or participant of a legal entity that enters into public procurement contracts and/or executes public procurement contracts as a subcontractor, holding 1/4 or more of the votes at meetings of shareholders; head of an association or public institution that has received state and/or municipal funding in the last 4 years, or a participant thereof holding 1/4 or more of the votes at meetings of shareholders; *a publicly known natural person, or a popular social network figure or blogger, forming the opinions of target groups of the society on various matters and/or receiving income for such activity, provided that the activities thereof are of relevance to public affairs* [new provision – author’s note]; other natural person who has public administration powers and/or administers the provision of public services, *and/or who has become a publicly known person due to his actions or position, provided that the activities thereof are of relevance to public affairs* [highlighted by author].

Although the clarification and expansion of the definition of a public figure is an important step in ensuring the freedom of the media to inform the public on relevant matters, and the said amendments establish a fairly good balance between the public interest to know and the protection of private life, however a discussion can still be raised on further harmonization of the chosen regulatory model. There is no uniform legal definition of a public figure in Europe. This concept is constantly changing and is usually defined in evolving case law. However, public figures are typically considered to be politicians, high–ranking public officials, leaders in public sectors such as the economy, celebrities, famous actors, athletes, artists, etc. The concept of a relative public figure is also distinguished, for example, when a person becomes more public or publicly visible for a period of time due to certain circumstances, for example, participants of a high–profile case in court.²⁹ Therefore, a question can be raised whether it would not be better to focus not so much on the person himself / herself as a public figure, but on the information of public importance, which would be a slightly more harmonious solution compared to that in the adopted amendments i.e. in certain situations, a person could be guaranteed a slightly lower privacy protection than usual, precisely because of the public interest to know, determined by a specific situation, and not because of the status of the public figure.³⁰

The case of Atvira Klaipėda highlighted another important issue that is consistently raised by the concerned journalistic community – application of the General Data Protection Regulation (GDPR), limiting journalists’ access to data of public importance. Among the most recent restrictions that sparked debate and outrage during the period under review was the decision made by the Central Election Commission to hide certain election candidate data previously published on the website, such as declarations of private interests³¹, and the investigation launched by the State Data Protection Inspectorate, including its proposal to impose a fine on the journalistic project “Karštos pėdos”, which

combined publicly available data on politicians and high-ranking civil servants, and their relations with public funds.³² This tool, funded by the European Union, was created to facilitate the work of journalists in investigating potential conflicts of interest.³³ Given the repeated attempts of institutions to apply the GDPR to restrict the work of journalists, regardless of the real objectives of the GDPR, it is necessary to encourage discussions and involvement of policy and decision makers regarding such institutional practices, as well as draw up clear guidelines for correcting the GDPR application practice in Lithuania and harmonizing it with the protection of freedom of expression and information.

The issue of the safety of journalists in performing their work was also raised during the period under review, after journalists, reporters and TV operators were verbally abused, pushed around, physically attacked, with bottles and stones thrown at them and their work equipment damaged by protesters during the protest that turned into a riot outside the Seimas on 10 August 2021.³⁴ In response to these attacks, media outlets condemned the use of emotional and physical violence against journalists and asked the police to pay attention to their safety.³⁵ On 23 August 2021, member of the Seimas Eugenijus Gentvilas registered an amendment to the Code of Administrative Offences, proposing to establish administrative liability for preventing journalists from lawfully gathering information.³⁶ However, by taking into account the comments of interested institutions, the Committee on Legal Affairs proposed to return the project to its initiator for improvement, by organizing a wider discussion on this matter.³⁷

One of the most acute problems regarding freedom of the media and information during the period under review became evident after the state's response to the rapid increase in the number of foreigners trying to enter Lithuania by crossing the Lithuanian-Belarusian border, and after an emergency situation and then a state of emergency was declared in autumn by resolution of the Seimas. During the emergency situation, when the so-called return policy began to be implemented on August 3, journalists complained that they could not get permits to enter the border zone for the whole month of August, even though legislation governing the emergency situation did not provide for such restrictions. After the journalists made a public appeal to government institutions, they were given the opportunity to enter the border zone³⁸, however, in practice, their ability to monitor and report on the so-called returns practice has been restricted.³⁹ On 9 November 2021, in response to the events at the Polish border, the Seimas declared a state of emergency in the border area, within 5 km from the border, in the foreigners' detention and accommodation centres, and 200 m around them.⁴⁰ By resolution of the Seimas, access to and dissemination of information was severely restricted for migrants and asylum seekers held in the centres. They were allowed to communicate only with public institutions, without the possibility to communicate with lawyers, attorneys, international and non-governmental organizations, their family members still living abroad, etc. In December, when the state of emergency was extended, this resolution was revised, enabling migrants and asylum seekers to apply for legal assistance or to international organizations, however media access to people living in the centres was not ensured.⁴¹ Media activity at the border was initially limited to 1 km from the border section by order of the head of the State Border Guards Service (SBGS), however later on, in response to criticism and discontent from journalists, a distance of 100 m was established.⁴² But even after the state of emergency was lifted in January 2022, journalists faced extensive restrictions when attempting to speak with the people held in the centres. According to SBGS, a written request was required from both the journalist and the person to be interviewed, and the interview itself had to be recorded and carried out in the presence of a SBGS officer; in addition, there was a requirement for the interview to take place within premises or areas not administered by SBGS, even though the persons to be interviewed could not leave the territory of the centre.⁴³ Such clearly unjustified restrictions drew significant criticism from the journalistic community.⁴⁴ When looking at the situation from a legal perspective, ECtHR judgment in the case against Hungary is of particular significance, when the court ruled on the reasonableness and proportionality of restricting a journalist's access to a refugee centre.⁴⁵ The court emphasized that public interest regarding reporting from certain locations is particularly relevant when it concerns the treatment of vulnerable groups by institutions, and the role of the media as the "watchdog" takes on particular importance in such contexts, since its presence is a guarantee that institutions will be held accountable for their behaviour⁴⁶. Although, in the said case, the Hungarian government used the protection of the privacy of asylum seekers as its main argument, state institutions disregarded the journalist's assurance that he would collect information and take photos only with the consent of the relevant persons. Therefore, in this case, the court has established a violation of Art. 10 of the Convention. Although, in the case of Lithuania, journalists are not generally prohibited from entering the detention and accommodation centres, however the applied

procedure is so restrictive on the rights of both journalists and asylum seekers and migrants that it essentially makes gathering of objective, impartial and accurate information impossible; moreover, such a procedure, when a specific person who wants to talk to a journalist is required to first submit a written request to the centre's administration, raises the issue of disregarding the right of journalists to protect their source of information. It is also important to note that the formal legal basis for such restrictions is questionable. The general procedure for the temporary accommodation of foreigners, approved by order of the Minister of the Interior, does not provide for such restrictions, neither for journalists nor for the persons held in the relevant centre. It is provided that, in order to visit the centre, a written request must first be submitted, indicating the purpose, date and time of the visit, and the full names of visitors. And meetings of foreigners with public information providers are being organized in accordance with the rules of internal procedure.⁴⁷ However, according to the data of 24 January 2022, the Kybartai Foreigners' Registration Centre, which the journalist sought to enter, did not have any approved internal rules.⁴⁸

By commission of Human Rights Monitoring Institute, Spinter Research has conducted a public opinion survey in March 2021, which revealed that only 31% of respondents agreed with the statement that the media in Lithuania tries to present news objectively and impartially.⁴⁹ At the same time, 73% of respondents agreed with the statement that fake news and false facts spreading in the media and on the Internet pose a threat to democracy. The trend of growing mistrust in the media could also be seen in the representative survey of the population conducted by Vilmorus in 2021. Based on the survey, only 24.8% of respondents trust the media. According to Vldas Gaidys, the head of Vilmorus, this is the lowest level of trust recorded in the last 23 years.⁵⁰ Such results have sparked active discussions in the journalistic community, together with experts looking for reasons for such low level of trust.⁵¹ Given the important function of the media in society, increased distrust signals the need to investigate its deeper causes and solve the problems that led to it.

In summary, positive trends in fostering the freedom of expression in Lithuania were observed during the period under review, such as the initiation of legislation favourable to the freedom of expression and the media, and important court decisions ensuring the protection of the freedom of expression and determining balance between the latter and other important public interests. However, there were also a number of negative trends, mostly related to flawed practices of state institutions, restricting the freedom of expression and the media, especially by using the General Data Protection Regulation as a pretext to prevent journalists from gathering information of public importance. It is also worth separately mentioning the declaration of emergency situation and state of emergency, during which both legislation and institutional practice severely restricted the rights of the media and its ability to provide the public with objective, reliable and verified information on the management of the migration and refugee crisis. Such restriction of work carried out by the media not only does not contribute to the effectiveness of crisis management, but also reduces the general trust of the public in state institutions.

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Freedom of Assembly

Mėta Adutavičiūtė

The period under review was characterized by a relatively high number of protests due to the restrictions imposed during the pandemic, and public discussions on the limits of freedom of assembly, especially after the rally that took place outside the Seimas in August 2021 turned into a riot. Although, after the quarantine was imposed, the freedom of assembly was formally restricted for some time, obliging people to not gather in groups larger than 5 people, and prohibiting organized gatherings of people in public areas, larger gatherings of a political nature (protests, rallies) were not prohibited in certain cases. Discussions were also caused by the attempt of the Kaunas City Municipality to prevent the LGBTQ+ community from organizing a march on Kaunas Laisvės Avenue, which the court recognized as unfounded. Vilnius City Municipality also sought to restrict a different kind of gathering – a rally organized by the Family March in front of the Seimas, however the court recognized this decision of the municipality as insufficiently justified.

On 4 November 2020, in response to the sharp increase in the number of cases of COVID-19, the Government declared a quarantine in the entire territory of the country.¹ Rather broad restrictions on movement, economic activity and social contacts were established, including restrictions obliging individuals not to publicly gather in groups larger than 5 people, to maintain a distance of at least 2 meters from other people or groups thereof, and to avoid direct physical contact. “All commercial and non-commercial cultural, entertainment, sports events, celebrations, fairs and festivals organized in public areas, open and closed spaces, or other organized gatherings of people in a public area at a predetermined time lasting for a certain period of time [...]” (highlighted by author) were also prohibited.

Even though the controversial marches of nationalist organizations did not take place on 16 February and 11 March of 2021 due to the quarantine (car parades were held instead)², however permission was given to organize a rally against the quarantine restrictions in Vilnius on March 20, during the quarantine.³ Restrictions on events in closed and open spaces were somewhat relaxed on 5 May 2021 (a limited number of participants and application of contact tracing measures were established), however restrictions were still applied for gatherings in public areas; nevertheless, regardless of these restrictions, the Big Family Defence March (also called the Family March) took place in Vilnius Vingis Park on 15 May 2021, bringing together around 10 thousand people. Its organization was approved by the municipality on 20 April 2021.

By resolution of the Government, restrictions on the organization of events were relaxed further on 19 and 26 of May 2021, by providing various mandatory safety measures during events.

In June 2021, after the Family March event held in Vingis Park, Vilnius City Municipality refused to coordinate the organization of another such event outside the Seimas on June 15-17. Although such a restriction could have been justified by the fact that the health of people had to be protected during the quarantine which has not yet been lifted, the municipality stated that such a gathering was not a protest and not a constitutional right to express one's views, but a “political festival” instead.⁴ However, a question can be raised whether such reasons were sufficiently justified, since the aim of the Family March was to express certain views on several matters of state and public life, at least judging from the information provided on its website. It is also doubtful whether state institutions can limit the freedom of assembly on the basis that a gathering of people does not conform to a certain form of assembly. The Law on Assemblies defines an assembly as a peaceful gathering of people intended for the free public expression of views and opinions, and sets out specific grounds on which assembly may be reasonably restricted (on the grounds of public safety, public order, protection of the health of people, protection of moral principles enshrined in legal acts, and protection of the rights and freedoms of others). Therefore, an assembly could be restricted on the basis of protecting the health of people and not because it does not meet the definition of a protest. Despite the fact

that it was not coordinated, a small rally still took place in front of the Seimas on 15 June.⁵ In order to circumvent the municipality's decision, the organizers said that they were gathered in groups of 15 people, which does not require coordination of a notice with municipality. However, photos of the rally show that people gathered in larger groups, and that it was one and the same rally instead of several separate rallies with 15 people per each rally, thus such an assembly had to be coordinated with the municipality. However, the Vilnius Regional Administrative Court has ruled on July 9 that the municipality's refusal to coordinate the event was a disproportionate restriction on the freedom of assembly, even if it was based on protecting the health of people, since organizers of the rally assured that they would take all safety measures.⁶

Based on the provisions of the Constitution and the Law on Assemblies, the health of people can be a legitimate basis for restricting the right to peaceful assembly. However, both the Government's resolution and the practice of state institutions lacked clarity and consistency, i.e. some gatherings were permitted and could be organized, while others were restricted. Therefore, it can be assumed that the procedure for organizing and/or restricting such events during quarantine could have been regulated in the Government's resolution more clearly, by taking into account the importance of freedom of assembly in a democratic society and distinguishing these gatherings from events that are not considered an assembly in the sense of the Law on Assemblies. This way, the practice of state institutions likely would have been more consistent when applying established restrictions.

The tensions in society due to the pandemic and related restrictions spilled out during a rally in front of the Seimas on 10 August 2021 which escalated into a riot. It was already evident during the first part of the protest that it was not a peaceful assembly – journalists who tried to cover the protest suffered from the protesters' insults and even physical attacks, and politicians who tried to talk to protesters were being attacked and verbally abused.⁷ After the officially set time of the protest has ended, the crowd ignored the police's requests to disperse and began to surround the Seimas, preventing its members from leaving the building. The protesters then resorted to violence, throwing stones and glass bottles at police officers, and physically attacking members of the Seimas who were trying to leave. Only after police forces were increased and special riot police has arrived, the riots were suppressed and people dispersed. Nearly 20 police and Public Security Service officers were injured during these riots.⁸ Allegations regarding the organization of these riots, their provocation and violence during the riots were brought against 85 people, with 26 persons being recognized as victims.⁹

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In light of these events, on 31 August 2021, Vilnius City Municipality has cancelled its decision to coordinate another Family March rally planned on September 10 in front of the Seimas.¹⁰ This decision was justified by an excessive number of participants in the planned rally, inconveniences for visitors of the Martynas Mažvydas library, overly long duration of the planned protest (until 22:00), and an increased risk of violence during the assembly. The Family March appealed this decision of the municipality to the court, however the court did not suspend the validity of the decision of the municipality until conclusion of the case with a lawful procedural ruling.¹¹ The Family March appealed to the municipality regarding the organization of a rally on the same day in the Cathedral Square, only this time with a smaller number of participants and until 4:00 pm, and the municipality agreed to coordinate such a rally.¹² However, this rally was not peaceful either – after the official time of the rally has ended, some of its participants moved from the Cathedral Square towards the Seimas, where they were stopped by the police at Lukiškės Square.¹³ During this rally, 20 persons were arrested for various violations of the law.

On 28 October 2021, the Vilnius Regional Administrative Court satisfied the complaint regarding municipality's refusal to coordinate a notice for a rally on September 10, reasoning that the municipality

did not provide objective data proving that there was a real threat to public safety or public order, and instead relied on abstract arguments and subjective assessment.¹⁴ The municipality appealed this decision to the Supreme Administrative Court of Lithuania (SACL).

In autumn of 2021, several more protests were organized in Vilnius by people who were unhappy with the opportunity passports. They did not involve many people, however one of the protests was distinguished by the fact that a pre-trial investigation was launched against its organizer, Astra Astrauskaitė, due to her public incitement to breach the sovereignty of the Republic of Lithuania with the use of violence – to change its constitutional order and overthrow its legitimate government.¹⁵ Another similar protest was coordinated with the Vilnius City Municipality after the official commemoration event at the Seimas on 13 January 2022, however protesters arrived early and disrupted the event of remembrance of January 13 victims and homage to the Freedom Defenders by whistling, shouting, blowing pipes and beating drums.¹⁶ 10 administrative cases were initiated by the police for failure to ensure sufficient distance between event participants and the Seimas Palace, for violation of good morals and ethical standards, and for disturbing the public order.¹⁷ After the Family Movement¹⁸ expressed its desire to organize another similar event, this time on February 16, the municipality rejected such a request, citing its preference for official events and commemorations to be held in the same venues (Art. 7(6) of the Law on Assemblies).¹⁹

The Kaunas Pride march of the LGBTQ+ community was organized for the first time in Kaunas on 4 September 2021. Its organizers faced the resistance of the Kaunas City Municipality and its established bureaucratic obstacles aiming to prevent the event – the municipality rejected the organizers' requests to coordinate the routes of the march on Laisvės Avenue three times, justifying this with the fact that the march would supposedly disrupt traffic, construction works and the work of cafes situated at Laisvės Avenue.²⁰ The organizers appealed to the court regarding such decisions of the municipality. On 3 September 2021, the Supreme Administrative Court of Lithuania adopted its final and non-appealable ruling, obliging the municipality to coordinate a specific route for the march in Laisvės Avenue. In its ruling, the court relied on the fundamental importance of freedom of assembly in a democratic society, the freedom of assembly as the basis of such a society, and the necessity of compliance of restrictions thereof with the grounds established in the Constitution. According to SACL, in refusing to agree on the location and route, the Kaunas City Municipality relied on rather abstract arguments, assumptions and reasoning, and did not prove or provide specific data that the event would cause disproportionate difficulties or risks to public order and safety, or to the health and morality of the people.²¹ On the same day, the Kaunas City Municipality agreed on the route of the march with its organizers and the event took place on the scheduled day.

Based on a public opinion survey conducted by Spinter Research in March 2021 by commission of the Human Rights Monitoring Institute, 44% of respondents stated that they do not believe that it is possible to gather in peaceful protests freely and without hindrance in Lithuania.²² At the same time, 68% of respondents supported the Government's decision to prohibit public gatherings during the quarantine imposed due to the COVID-19 pandemic. 71% agreed to the restriction of the freedom of assembly if it encourages violence against a minority group of society, and 56% agreed to the said restriction if the aim of a gathering is to express support for Russian President Vladimir Putin. As many as 75% of respondents stated that they would participate in a protest if the problem affected them personally, 64% – if the protest was aimed at solving a political, social or economic problem in Lithuania. A smaller but still sufficiently large percentage of respondents would also participate in an assembly seeking to draw attention to the rights of national, ethnic, religious or other minority groups (33%), or to relevant issues in other countries or the world (27%). In summary, as many as around two-thirds of respondents would support restrictions on freedom of assembly if they were based on the protection of other essential public interests, e.g. human health and public safety. More than half (March 2021) of respondents would agree to restrictions if the aim of an assembly was to support V. Putin, as this would be perceived as a threat to the country's security²³; the majority of respondents would also be inclined to exercise their right to freedom of assembly, depending on the issues raised in the latter. At the same time, almost half of the respondents do not feel that it is possible to freely participate in peaceful protests in Lithuania, thus it is important to further investigate the reasons thereof and look for ways to solve them.

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Freedom of Religion

Gintarė Počė

According to the population and housing census of 2021, 74% of Lithuanians consider themselves as Roman Catholics.¹ Although the number of Lithuanians who identify themselves as belonging to this religious community is 3% less than a decade ago², when comparing the data of the previous population and housing census, the Catholic Church remains the dominant religious association in Lithuania. There was only a slight change in the number of Orthodox Christians (4.11% in 2011 and 3.75% in 2021), and a decrease in the number of Sunni Muslims (2,727 in 2011, 2,165 in 2021). There were also no changes in the number of Lithuanians who do not identify themselves with any religious community – in both 2011 and 2021, this number amounted to slightly more than 6%. The percentage of Lithuanians who did not indicate any religious community has increased from 10.13% (2011) to 13.66% (2021). The results of the 2021 census also show that the religious diversity of the population is increasing and new religious communities are emerging: Deists, Gaudiya Vaishnava, Witches, Rastafarians, Theosophists.³

Nevertheless, public opinion survey data still indicates negative attitudes towards certain religious minorities. When comparing the data of 2020 and 2021 surveys, public attitudes towards religious minorities have worsened. The respondents of the survey conducted in 2020 have stated that they would not want to live in the same neighbourhood with Muslims (41%), Jehovah's Witnesses (29%), Hindus and Buddhists (25%), representatives of religious faiths not registered by the state (15%), and representatives of other (non-traditional) faiths of Christian origin (14%). Compared to the 2020 survey data, the number of respondents who would not want to have Muslims as neighbours has increased by 4% in 2021. The number of respondents who would not want to have Jehovah's Witnesses as their neighbours has also increased by 3%. The number of Lithuanians who would not want to live in the same neighbourhood as representatives of other (non-traditional) faiths of Christian origin has increased by 1%. It is important to note that the number of respondents who would not want to work in the same workplace with Muslims has increased from 28% (2020) to 31% (2021). And the number of respondents indicating that their opinion of Muslims has worsened has increased from 48% (2020) to 59.1% (2021). The results of the 2021 public opinion survey indicate that the crisis of migrants coming to Lithuania via Belarus, which began in the early summer of 2021, may have contributed to such changing attitudes among Lithuanians. Thus, it can be assumed that the increasingly negative opinions towards Muslims was affected by the said migrant crisis.⁴

The judgment of the European Court of Human Rights (ECtHR) regarding violations that occurred in the decision on whether to grant state recognition to the ancient Baltic religious community Romuva (hereinafter – Romuva) was one of the most significant events in 2020–2021, conveying issues related to ensuring the freedom of religion in Lithuania. In 2017, Romuva appealed to a group of members of the Seimas with a request to present a draft resolution granting it state recognition. The Ministry of Justice concluded that Romuva meets the criteria applied to religious communities seeking state recognition. In 2018, a group of members of the Seimas presented a draft resolution proposing to grant Romuva the status of a state-recognized religious community. After assessing the draft resolution, other state institutions (Legal Department of the Chancellery of the Seimas, Seimas Committees on Culture, Human Rights, National Security and Defence, the Government) decided to approve it. However, on 27 June 2019, when the Seimas voted on the adoption of the draft resolution to grant state recognition to “Romuva”, the draft was rejected.⁵

It should be noted that the Law on Religious Communities and Associations of the Republic of Lithuania, the main document in the Lithuanian legal system defining the rights and activities of religious communities, establishes the right to freedom of belief and indicates that there is no state religion in Lithuania.⁶ All registered religious communities have the right to perform religious

ceremonies, however traditional and state-recognized religious communities are entitled to certain privileges: the possibility of registering a church marriage, teaching religion in schools, and getting national broadcaster's airtime to broadcast their religious services.⁷ Pursuant to this law, Lithuania recognizes nine traditional religious communities and associations that are part of Lithuania's historical, spiritual and social heritage: Roman Catholic, Greek Catholic, Evangelical Lutheran, Evangelical Reformed, Russian Orthodox, Old Believer, Judaist, Sunni Muslim and Karaite. The law states that other (non-traditional) religious associations may be granted state recognition "as being a part of Lithuania's historical, spiritual and social heritage if they are backed by society and instruction and rites thereof are not contrary to laws and morality".⁸ State recognition was already granted to the Union of Evangelical Baptist Communities, Seventh-day Adventist Church, Union of Christians of Evangelical Faith of Lithuania, and the New Apostolic Church in Lithuania. It should be noted that Romuva is the first non-Christian religious community that sought state recognition.

Following the resolution of the Seimas of 2019, Romuva appealed to the ECtHR which, in the case of the Ancient Baltic Religious Community Romuva v. Lithuania, has found that, in its resolution on whether to grant state recognition to this religious community, Lithuania had violated Art. 9 (freedom of thought, conscience and religion), Art. 14 (prohibition of discrimination), and Art. 13 (right to an effective remedy) of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter – Convention).⁹

The ECtHR has concluded that state institutions did not provide a reasonable and objective justification on why Romuva was assessed differently than other religious communities in a similar situation. The ECtHR noticed that the appealed decision of the Seimas was made by voting on the resolution, but without indicating why the application of Romuva was rejected. The discussions that took place during the session of the Seimas, the opinions expressed by members thereof and the Government's explanations indicate that the decision not to grant Romuva state recognition was mainly related to the religious beliefs of this community. According to the ECtHR, this is incompatible with the state's duty to maintain neutrality and impartiality. The ECtHR also expressed its concern regarding the possible influence of the state's relationship with Christianity on the decision of the Seimas not to grant state recognition to Romuva: several members of the Seimas mentioned the historical importance of Christianity in Lithuania and discussed the impact that state recognition of a pagan religious community might have on Lithuania's relations with other Christian religious communities. According to the ECtHR, the connections between Romuva and Russian politics indicated by members of the Seimas were also not justified. It should be mentioned that the court also took note of the letter of the Lithuanian Bishop's Conference which was sent to more than half of the members of the Seimas and quoted at the session when considering whether to grant the status of a state-recognized religious community. However, as stated in the court judgment, the ECtHR did not want to speculate on the possible impact of the letter on the resolution of the Seimas.¹⁰

Although Romuva met all the criteria set by the law for state recognition, and Lithuania declares the principle of separation of church and state, the state was biased towards Romuva. The ECtHR also criticized such a system of state recognition of religious communities in Lithuania, since it is entrusted to the Seimas which is a political institution, and there is no possibility to appeal the resolutions of the Seimas.¹¹ After the judgment of the ECtHR, a draft resolution was submitted to the Seimas in December 2021, proposing to grant state recognition to the religious community Romuva. After its submission to the Seimas, this draft was finally approved (41 members voted "in favour of", 18 members voted "against", and 18 abstained from voting). Although the draft will continue to be examined by the Seimas committees and considered in plenary sessions, this resolution, if adopted, will be an important step for Lithuania in implementing the ECtHR judgment.¹²

During the period under review, a question was also raised regarding certain provisions set out in the Law on Religious Communities and Associations of the Republic of Lithuania. At the request of a group of members of the Seimas, the Constitutional Court (hereinafter – CC) investigated whether Art. 6(2) of the Law on Religious Communities and Associations of Lithuania conflicts with the Constitution of the Republic of Lithuania. By resolution of the CC, the provision of Art. 6(2) of the Law on Religious Communities and Associations stating that "religious associations may request state recognition after the lapse of at least 25 years from the date of their initial registration in Lithuania" does not contradict the Constitution. However, the provision of Art. 6(2) of the said law ("if the request is denied, it may be resubmitted after the lapse of 10 years from the day the request was denied")

contradicts Art. 26(1) (“Freedom of thought, conscience and religion shall not be restricted”) and Art. 43(1) (“The State shall recognise <...> other churches and religious organisations provided that they have support in society and their teaching and practices are not in conflict with the law and public morals”) of the Constitution. According to the CC, such a provision is constitutionally unfounded.¹³

Lithuania also found itself before the ECtHR due to a possible violation of freedom of thought, conscience and religion, after not exempting a person from the obligation to perform military service. The applicant of the petition against Lithuania, Stanislav Teliatnikov, a clergyman of Jehovah's Witnesses, claimed that Art. 9 of the Convention had been violated in his case, because he was not exempted from military service due to his religious beliefs. By ruling of the Supreme Administrative Court of Lithuania of 10 April 2019, the claim of S. Teliatnikov was rejected based on the provision of the Constitution of the Republic of Lithuania stating that “the status of a clergyman of a church or religious organization (regardless of whether he is a clergyman of non-traditional religious communities and associations in Lithuania or of traditional ones) shall not be a reasonable ground for exempting a person from his constitutional duty as a citizen to perform military or alternative national defence service”¹⁴. Thus, the ECtHR will examine the case and assess whether Lithuania restricted Teliatnikov's freedom of thought, conscience and religion by not exempting him from military service.

In 2020, the Office of the Equal Opportunities Ombudsperson received 3 complaints regarding discrimination based on religion and 1 based on faith. In one complaint, a Muslim applicant incarcerated in prison claimed that the administration of the penitentiary offered him to pray in a chapel together with persons of the Christian faith. The complainant was referred to apply to the Seimas Ombudsmen's Office, since the assessment of legality of the actions (inaction) of officers is attributable to the competence of the said office.¹⁵

In 2021, the Vilnius Regional Administrative Court rejected the religious discrimination based complaint of the Muslim incarcerated in a correctional facility in Vilnius. The believer stated that there were no conditions for him to profess Islam in the penitentiary. The court rejected this complaint, since clergymen of all confessions have the right to visit the penitentiary if this is coordinated with the administration of the prison. According to the court, penitentiaries have facilities and specific time for religious practices, however the law does not require them to have special facilities for those who practice Islam.¹⁶

Under its ruling of 27 April 2021, the Supreme Court of Lithuania (SCL) finalized the so-called Zero Live Show advertising case. The SCL upheld the indictment under which the director Emilis Vėlyvis, actors Mindaugas Papinigis and Arūnas Storpirštis were convicted of disrupting church services in the town of Turgeliai during which they carried out a public performance promoting a commercial event. Such disruption of religious rites and ceremonies is prohibited by law, i.e. Article 171 of the Criminal Code of the Republic of Lithuania. The panel of judges noted that both the time of the act (Feast of the Assumption of the Blessed Virgin Mary) and the location (parish church of the same name), the area of which is inhabited by the Polish national minority with deep religious traditions, are very significant to the locals and their national identity, therefore in this case the question of the violation of public order is more sensitive and requires greater attention. The SCL also rejected the argument presented in the cassation appeal that the courts violated the constitutional right of the convicted to freedom of belief and expression, since the actors carried out a performance in the church, thus using a metaphor intended to provoke a public discussion about paedophilia among the clergy. Even though, given the circumstances of the act, the SCL expressed its doubts about the purpose of such a performance, it admitted that the actions of the convicted persons in the church are considered to be self-expression, but also emphasized that the persons were found guilty not of self-expression itself, its idea, form or method of expression as such, but of violation of public order, which disrupted religious ceremonies and rites. Therefore, while balancing between freedoms of thought, belief and expression, the SCL has ruled that, even if the stated purpose of the performance was true, “its implementation, given the chosen time and location, was not proportionate in terms of violation of the constitutional rights of other people”¹⁷. It should be noted that Article 171 of the CrC applies to a person only when he is guilty of disrupting the services or other rites or celebrations of a religious community or association recognized by the state¹⁸. Therefore a question arises on how would the courts establish a balance between freedom of religion and other constitutional rights, if the rites of a religious community or association not recognized by the state were disrupted?

It is also important to mention the impact of the COVID-19 pandemic on the life of religious communities in Lithuania. Due to the imposed restrictions of the pandemic, religious communities had to change their usual ritual procedures: limit the number of believers in houses of prayer, not organize any gatherings or festivals, implement strict disinfection measures and / or participate in church services and religious practices remotely. A number of religious communities faced financial challenges – during remote services, it was not possible for believers to make donations for the maintenance of the community and the house of prayer.¹⁹

In summary, according to the Constitution of the Republic of Lithuania, there is no state religion in Lithuania, and freedom of religion is guaranteed. However, the mentioned events and the case of the Romuva religious community seeking state recognition raised doubts regarding the state's neutrality towards different religions and the influence of the Roman Catholic Church on state institutions when addressing matters related to other religious communities. This raises questions regarding acceptance of religious diversity and ensuring the freedom of religion in Lithuania.

Summary

Data from the 2021 population census shows increasing religious diversity in Lithuania, however a public opinion survey has revealed that public attitudes towards certain religious minorities have become more negative. According to the Constitution of the Republic of Lithuania, there is no state religion in Lithuania, and freedom of religion is guaranteed. However, the case of the Romuva religious community seeking state recognition raised doubts regarding the state's neutrality towards different religions and the influence of the Roman Catholic Church on state institutions when addressing matters related to other religious communities. This raises questions regarding acceptance of religious diversity and ensuring the freedom of religion in Lithuania.

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Personal Data Protection

02

Personal Data Protection

Natalija Bitiukova

Overview of Personal Data Protection Violations

The most significant violations of personal data protection in terms of the number of affected persons and the impact during the discussed period were related to inadequate implementation of data security measures in the information systems of public and private companies.¹ Orakulas, Darnipora.lt², Kilobaitas.lt³, users of other information services⁴ and students of Vilnius University of Applied Sciences⁵ were all affected by cyber incidents and data breaches.

In November 2021, the largest penalty up to date imposed by the State Data Protection Inspectorate (SDPI) was a fine of 110 thousand euros imposed on the short-term car rental platform CityBee for violation of requirements of the General Data Protection Regulation (GDPR) related to the obligation to ensure the confidentiality of data processing.⁶ Following the hacking of the company's unsecured backup database of its users, the names and surnames of 110,302 users were made public, including their contact details, personal identification numbers, driver's license numbers and information related to payment cards.⁷ While disagreeing with the SDPI's interpretation of the facts, CityBee decided not to appeal against the fine.⁸ The hacker attack against CityBee led to a pre-trial investigation⁹, and a consumer rights organization took the initiative to bring together victims of the attack in a class action lawsuit.¹⁰ The Ministry of Justice allocated 11,600 euros to partially cover the costs of preparing the class action.¹¹

During the discussed period, cases of improper processing of personal data were also identified in the information systems managed by state and municipal institutions. Due to the heavy rain that occurred in July 2020, the facilities of the Centre of Registers were flooded, including the server room where personal data was stored.¹² Due to failure to ensure proper conditions for the storage and duplication of data, it took a lot of time to restore the E-Health system and the data contained in it, which disrupted the operation of health care institutions for at least a week.¹³

And even more data processing violations were found during the inspection of ten state information systems carried out by the SDPI, among which were improper implementation of requirements for limiting the data retention period and reducing data amounts.¹⁴ Although the extent of damage caused by these types of violations is often underestimated in society, the incident that took place in Vilnius City Municipality shows that a careless approach to data protection can lead to irreversible negative consequences and cause great moral damage to the affected people. In the case of the municipality, failure to implement organizational and technical measures led to the unlawful disclosure of the contact details of biological parents of an adopted child and the fact of adoption itself. In the said case, the municipality was fined 15 thousand euros.¹⁵

During the discussed period, the question of lawfulness of the transfer of personal data to third countries was one of the most frequently discussed issues among data protection specialists.¹⁶ The reason for this is the 2020 judgment of the Court of Justice of the European Union (CJEU) in the Schrems II case, which invalidated the transatlantic data transfer mechanism "Privacy Shield" and significantly tightened the rules for transferring personal data outside the European Union.¹⁷ In Lithuania, the issue of the use of Chinese technologies, which can unlawfully collect data on Lithuanian residents and transfer such data to Chinese security services, has been raised repeatedly. In 2021, Government commission blocked the installation of Chinese equipment at Lithuanian airports due to a threat to national security¹⁸, and the National Cyber Security Centre has identified the risk of data leakage when using smart 5G devices from Chinese manufacturers.¹⁹

In the context of the pandemic, the main issues of ensuring data protection were related to the increased volume of personal data being processed; unclear rules for processing health related data

of employees and visitors of public institutions; identification of persons receiving remote services from health care institutions; and the lawfulness of data processing in mobile apps designed to warn residents about the risk of contracting COVID-19.²⁰ In February 2021, SDPI imposed a fine of 12 thousand euros on the National Public Health Centre and an IT company for data processing violations in their developed “Quarantine” app.²¹

Institutional Supervision of GDPR Implementation and Change in Public Opinion

In 2021, the number of people aware of GDPR remained stable²², however tolerance for data protection violations has decreased and there has been an increase in the number of people who believe that entities that handle personal data improperly should be punished.²³ Among the positive things was the fact that, during the period under review, SDPI carried out several projects to increase awareness about personal data.²⁴ However, Lithuanians still lack information about basic cyber security rules and tools that would effectively increase protection against personal data leakage or theft.²⁵ During the period under review, the number of complaints received by institutions supervising the protection of personal data (SDPI and the Office of the Inspector of Journalist Ethics) grew and their overall workload has increased.²⁶ In view of the latter and after the Ministry of Justice conducted an internal audit of SDPI’s human resources management, it was decided to strengthen SDPI with 32 additional job positions.²⁷ When assessing the effectiveness of supervision carried out by these institutions, cases were observed where two supervisory bodies assessed the same situation differently and presented conflicting interpretations of data protection regulations.²⁸

During the discussed period, the circle of institutions supervising data protection violations was expanded. The Intelligence Ombudsperson institute established at the end of 2021 will have the authority to assess personal data violations in cases where personal data will be processed for national security and defence purposes.²⁹

Collision of Freedom of Expression, Freedom of Information and Protection of Personal Data

During the discussed period, cases concerning the relation between freedom of expression, the right to privacy and protection of personal data received a significant response in society. On 6 October 2021, the Supreme Administrative Court of Lithuania (SACL) ruled that the Atvira Klaipėda portal unlawfully disclosed the personal data of a businessman with possible relations to non-transparent public procurements, thus violating the General Data Protection Regulation. The SACL did not recognize the said businessman, who was previously a candidate in local elections, as a public figure and therefore decided that his personal data could only be published with his consent.³⁰ The journalistic community criticized this court judgment and the tendency to use the GDPR as a pretext to hide important information from the public.³¹ The discussions that arose after the court judgment encouraged the Committee on Culture of the Seimas to expand the definition of a public figure established in the Law on the Provision of Information to the Public. These amendments were adopted in December of 2021.³² The judicial proceedings in the Atvira Klaipėda case were resumed by motion of chairman of the SACL.³³ The decision made by SACL’s extended panel of judges in February 2022 established that there was no GDPR violation in this case. The panel of judges recognized the said businessman to be a public figure and stated that the administration of public funds falls within the scope of common interest, therefore the public is not only interested in the proper organization of the use of public resources, but must also be properly informed thereof.³⁴

It should be noted that the 2021 October judgment in the Atvira Klaipėda case did not comply with the case law formed by the SACL in similar cases. In September of the same year, the SACL passed its judgment in the News Centre case, in which the relationship between freedom of expression and the inviolability of private life was considered by systematically applying the criteria formulated by the European Court of Human Rights (ECtHR) in this type of cases (i.e. contribution of public debates to the matter of common interest, whether the person is well known to the public, the method of obtaining published information and its authenticity, the content, form and consequences of the publication, etc.), and interpreting the concept of a public figure more broadly.³⁵ The juxtaposition of these two court judgments shows that the fragmented application of GDPR and the provisions of the Law on the Provision of Information to the Public does not necessarily stem from inadequate legal regulation, but instead from the formal approach of supervisory bodies and courts that does not always meet the standards of the ECtHR, as well as from the interpretation of provisions determined by such an approach.

During the period under review, amendments to legal acts were adopted, establishing a new procedure for storing and publishing the personal data of election candidates.³⁶ The said amendments shortened the period of publication of data of candidates in municipal council and European Parliament elections to 10 years, and established that some information is allowed to be published only until the end of the political campaign.³⁷ At the beginning of 2022, the Central Electoral Commission (CEC) transferred part of the data to the “Voter’s Page” portal, and the declarations of private interests older than 2021 were removed from the public space.³⁸ After being criticized by media representatives and transparency organizations³⁹, the CEC reversed its decision on the very next day and promised to publish declarations of private interests on its website.⁴⁰

It is likely that state institutions will soon have to return to the matter of publishing declarations of private interests, since the CJEU is currently examining the request of the Vilnius Regional Administrative Court to adopt a preliminary ruling regarding the necessity to publish declarations and the legality of collection of special personal data provided therein in accordance with the GDPR.⁴¹ It should be noted that the issue of data openness will become even more relevant in the future due to the European Data Strategy package being considered at EU level, which aims to encourage responsible sharing and re-use of data sets (including personal data).⁴²

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Reproductive Rights and Sex Education



03

Reproductive Rights and Sex Education

Akvilė Giniotaitė

Pregnancy and Childbirth

After the start of the COVID-19 pandemic, maternity wards had the right to decide whether women could be accompanied by other persons for support during labour and delivery. Since there is no institution in Lithuania that would centrally provide relevant information for pregnant women and mothers, these women had to find the correct information themselves, which was frequently updated due to the challenges of managing the COVID-19 pandemic.¹ Conclusions of the study conducted by the Union of Initiatives Protecting Motherhood drew attention to the fact that, in the context of management of the COVID-19 pandemic, it is also necessary to consider the "long-term consequences of feeling unsafe during childbirth or traumatic experiences"². Results of the study also indicate the relatively frequent experiences related to low-quality services, and feeling unsafe or even abused during childbirth in various Lithuanian hospitals: "9.3% [of women who gave birth] said they felt somewhat unsafe or not safe at all in the hospital; 14.3% experienced intimidation from hospital staff, 24.5% experienced bullying, 9.3% – abuse; 27.8% were dissatisfied with the care provided during childbirth, 31.6% – with hospital care after delivery"³.

In 2021, a survey of the residents of Panevėžys city and district, and Tauragė district conducted by the Centre for Equality Advancement showed that there is still a strong negative attitude towards the reproductive rights of women with disabilities in society. Only 28% of respondents disagreed with the statement that "disabled women who choose to have children are acting irresponsibly", and more than half of those who participated in the survey fully or partially agreed with the statement that "Forced sterilization of women and/or forced termination of pregnancy is justified in the case of certain disabilities"⁴.

Access to Contraceptives and Restrictions on the Right to Abortion

Restricted access to doctors due to the pandemic and/or reduced family finances have made it difficult for a large part of the population to get reliable information on a safer sex life, family planning, proper use of contraception, and even access thereto. This has contributed to a much higher number of unplanned pregnancies worldwide.⁵ The pandemic period has also highlighted gaps in sexual literacy: a number of women with unplanned pregnancies had false knowledge about the effects of contraception and the possibility of getting pregnant, e.g., they believed that it is impossible to get pregnant during the first sexual intercourse.⁶

With the introduction of quarantine and restrictions on health care services, not all women may have been guaranteed the right to abortion. Minister of Health Aurelijus Veryga said about abortion that "apparently, it is not considered to be a thing that would require necessary medical assistance"⁷. This position of the Minister of Health caused a strong public reaction. More than 10 thousand people signed an appeal calling on the Government and the Minister of Health to "immediately ensure the possibility for women to terminate pregnancy safely even during the quarantine period"⁸. Reproductive rights are treated as human rights by the United Nations, and not providing services or providing low-quality services relevant only for women is considered a violation of these rights.⁹

For women living in peripheral areas further away from major cities, access to abortion has become even more difficult.¹⁰ It should be noted that the stigma of abortion in society, which is supported by prevailing negative media attitudes, prevented women from publicly expressing their outrage about the situation.¹¹ With the Ministry of Health not ensuring the implementation of existing legal acts, disturbing discussions began to appear in online forums on how to induce abortion at home¹², illegal abortion procedures, or the possibility to purchase the necessary medication to terminate a pregnancy¹³.

Discussion on Gaps in the Abortion System in Lithuania

Lithuania currently follows the 1994 Order of the Minister of Health "On the Procedure for Performing Abortion Surgery"¹⁴. The said order does not correspond to what is relevant today and to the needs of the society, and is criticized as "morally outdated"¹⁵. In this order, abortion is perceived as causing "damage to a woman's physical and mental health"¹⁶, even though the latest scientific research data does not support this assumption¹⁷. In addition, according to the survey commissioned in 2021 by the Human Rights Monitoring Institute, 48% of respondents agreed with the statement that "a woman has the right to choose whether she wants to terminate her pregnancy", 22% were more likely to agree than disagree with this, while the rest of the respondents tended to disagree or had no opinion. Women expressed agreement more often than men.¹⁸

The World Health Organization (WHO) has included medicines for pregnancy termination in the list of essential medicines, however these medicines are not legal in Lithuania. Specialists in the field claim that "an unfavourable attitude towards women's reproductive health still prevails in Lithuania"¹⁹. The level of gender equality and subordination of a woman in society is generally closely related to "the control of women's reproductive rights and choices"²⁰. Urged by the appeal initiated by the Family Planning and Sexual Health Association "on the legalization of medical abortion in Lithuania"²¹, the Ministry of Health initiated discussions about the legalization of medical abortion in the first half of 2021²², however no major breakthroughs have been made in this area.

Although in Lithuania "the number of induced abortions has decreased by 3.6 times between 2005 and 2020"²³, a scientific-practical conference on helping women in a "crisis pregnancy situation" took place in the Presidential Palace at the end of 2020, which was criticized by human rights experts. The term "crisis pregnancy" is associated with organizations that spread false narratives in societies to create barriers in exercising the right to abortion.²⁴ The Free Society Institute, which organized the conference, adheres to the policy of "tightening the abortion law"²⁵. Patronage of the event by the Presidential Palace was also criticized in the context of mass protests that took place in Poland at the time due to gross violations of reproductive rights in prohibiting legal abortion under almost any circumstances.²⁶

Proposed Amendments to the Law on Assisted Reproduction

The Law on Assisted Reproduction came into force in 2017²⁷, providing for "perpetual" retention (freezing) of created and unused embryos, regardless of the couple's / woman's possibilities to use the embryos, nor the quality of the embryos. In the global context, Lithuania applies one of the strictest restrictions in the field of assisted reproduction.²⁸ The state does not provide financial support for embryo freezing, thus its costs are covered with personal funds. Such circumstances make it difficult for couples to use assisted reproduction.²⁹ In September 2021, a draft amendment to the said law was registered, aiming to establish a 10-year embryo storage limit. The draft amendment also proposes "increasing state funding for couples unable to conceive, and legalizing the possibility of preserving fertility regardless of a person's age."³⁰ Fertility preservation procedures would then also be available to "persons younger than 14 years old with oncological and rare diseases that can cause infertility in the future."³¹ In October 2021, the Ministry of Health prepared amendments to the Law on Assisted Reproduction, according to which unmarried couples could also use the option of assisted reproduction.³²

Surrogacy

In October 2021, the Ministry of Health proposed "to legalize unpaid surrogacy when pregnancy is physiologically impossible"³³. Kristina Mišinienė, head of the Centre for Combating Human Trafficking and Exploitation, criticized this proposal, stating that approval of such a law would create more favourable conditions for human traffickers to exploit vulnerable persons. Equal Opportunities Ombudsperson Birutė Sabatauskaitė pointed out that, in addition to the adoption of the law on voluntary surrogacy, it is also necessary to ensure "prevention of human trafficking and exploitation", and to "prepare a methodology for the supervision and monitoring of such a mechanism and provide for the consequences for those who may try to circumvent this regulation"³⁴.

Reimbursement of Contraception Costs for Teenagers

34% of 11–12th grade students have had sexual relations, and the majority of them had more than one partner. Only 4% of them had correct knowledge about methods of contraception. The number of pregnancies among teenage girls in Lithuania is 2–3 times higher than in other Western countries: 11 out of 1000 girls aged 15–19 years gave birth in 2016 in Lithuania, compared to 4 in Holland, and 5 in Sweden and Norway.³⁵ Due to these statistics, at the suggestion of the Lithuanian Society of Obstetricians and Gynaecologists (hereinafter – LSOG), hormonal coils, which are among the most effective and safest means of preventing pregnancy, have been added to the list of reimbursed medicinal products in Lithuania as of 2021.³⁶ This contraceptive can be prescribed to girls between 15 and 20 years of age in accordance with the procedure established by the Minister of Health.³⁷ LSOG who initiated the change points out that teenage girls generally lack proper information about a safer sex life. It is hoped that once this change comes into force, more teenage girls will start seeing doctors, which will provide an opportunity to not only give them reliable information, but to also identify "potential cases of exploitation"³⁸.

Stagnation, Gaps and Challenges in Sexuality Education

To reduce the number of teenage pregnancies, it is necessary to ensure proper, consistent and comprehensive sexuality education.³⁹ Youth are not provided with reliable, age-appropriate information enabling to develop skills for protecting their own sexual and reproductive health and that of others. Access to effective and safe contraception is also limited for them.⁴⁰

In 2019, the Ministry of Education, Science and Sports began creating a Life Skills Development Program, the purpose of which is to also include the Health, Sex Education and Family Life program. Mandatory integration of the latter program since 2016 was unsuccessful, since teachers did not feel they had sufficient qualifications to ensure high-quality, comprehensive sex education. Due to poor sex literacy in the society, parents (guardians) also do not have sufficient skills to discuss sexuality-related issues at home. There are no standardized professional development courses for teachers on this topic. There is also no data that the new Life Skills Development Program would resolve the issue of teachers' lack of appropriate qualifications to talk on the topics of sexuality.⁴¹ There are currently no pedagogical study programmes that would provide a mandatory course on the topic of gender and sexuality education in general which the youth have the right to receive.

The upcoming Life Skills Development Program has been criticized for its superficial coverage of sexuality topics. It pays little attention to the issues of unplanned pregnancy, sexually transmitted diseases, LGBTQ+, and gender equality. Since the program is still being prepared, its drafters say that they are open to suggestions.⁴²

There are currently no pedagogical study programmes that would provide a mandatory course on the topic of gender and sexuality education in general which the youth have the right to receive.

Experts in the field draw attention to completely neglected areas of sex education: organization of early sex education,⁴³ prevention of sexual violence⁴⁴, and the online activities of youth. The latter area also includes the topic of online sexual harassment.⁴⁵ Online sexual harassment may include sending of sexually explicit images or text messages to another person without his or her consent, or pressuring or blackmailing a person to send sexually explicit material with the aim to use that material for personal or distribution purposes. Such behaviour is usually called sexting and is not regarded as sexual harassment in Lithuania. There is no educational work aimed at preventing sexual harassment, improving the ability of boys (and girls) to ask for consent, and fostering the skills to respect personal physical and virtual boundaries. Instead, prevention is mostly done by scaring girls into not sending sexually explicit information about themselves.⁴⁶

Influence of the Anti-Genderism Rhetoric on Sex Education

The sex education discourse actively involves both, people who support the anti-genderism narratives, and conservative organizations that associate sex education recommended by the WHO with moral degradation which is allegedly spread by teaching children sexual practices, forcing them to become members of the LGBTQ+ community and thus destroying the "traditional" family.⁴⁷ Panic regarding the implementation of sex education was particularly evident during the second quarantine declared on 7 November 2020 to control the spread of COVID-19 and lifted on 1 July 2021, in the midst of which there was a heated public debate over the so-called Istanbul Convention, i.e. ratification of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence.⁴⁸ A number of unfounded fears were fuelled during this debate regarding sex education, which supposedly poses a threat to the morality of youth, "traditional" genders, and even the independence of Lithuania.

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Prohibition of Discrimination

04



Age Discrimination

Sarmitė Mikulionienė

In 2020–2021, in order to control the COVID-19 pandemic, the quarantine which was imposed several times and the ever-changing requirements for both the population and specialists (related to social distancing and the principles of distribution of limited means of treatment for COVID-19 patients) revealed the age biases of decision-makers in many countries around the world¹, including Lithuania. When making decisions aimed at preventing the spread of the coronavirus, state institutions did not avoid age discrimination. This was particularly evident in areas of the labour market and provision of services.

The context of consequences of the management of the COVID-19 pandemic.

During the period under review, working persons aged 60 and over suffered a great deal of discrimination due to the imposed restrictions. Due to the fact that these individuals are at higher risk of morbidity and mortality from COVID-19, their opportunities for paid work were limited in the form of prohibitions or recommendations based on age alone (especially in the areas of healthcare, preschool services, education and retail).² In June 2020, amendments to the Law on Employment, Law on Unemployment Social Insurance and the Labour Code³ were adopted, establishing subsidies for downtime for employees over 60 years of age. However, it later turned out that this measure became a source of profit for some companies⁴, while other companies adjusted to the quarantine by reducing the number of their employees, primarily older ones. In February 2021, compared to February 2020, the unemployment rate among older people increased by as much as 60.6%.⁵

People with diseases other than COVID-19, usually chronic ones, could not get to doctors in time to receive the necessary treatment.

The country's older population faced direct and indirect age discrimination and discrimination in the provision of services. Cases of direct discrimination were characterized by the fact that, at the beginning of the first quarantine, notices were placed at the entrances of various public establishments (e.g., shopping centres, bookstores, etc.), prohibiting “persons of older age” and “persons over 60 years of age and/or those with chronic diseases” from entering.⁶ In the absence of other means of access to services (online services have gained momentum only later, but even this alternative was not always accessible for the older generation for various reasons – insufficient knowledge of smart technologies, not using an e-signature or e-banking services, not having a computer or similar devices), older people experienced significant constraints in obtaining the goods and services that they needed. One of the most distinct examples of indirect multiple discrimination was that, during the epidemic, when hospitals limited the range of their provided health care services, people with diseases (the majority of which are of older age) other than COVID-19, usually chronic ones, could not get to doctors in time to receive the necessary treatment.⁷ And with the prohibition of physical contact between members of different households, many people who had previously received the necessary social services at home were left in complete isolation (a lot of them are single elderly people with a limited level of independence).⁸ The issue of insufficient health protection of elderly people under the care of social care and nursing institutions during the quarantine must also be mentioned separately. A number of these institutions have turned into sources of outbreak of the infection (not only in Lithuania⁹). Relatives and family members were not allowed to help, and the elderly people under the care of these institutions were often in a helpless state themselves and could not take care of their own safety.¹⁰ Infection and mortality rates among residents of such care facilities were extremely high.¹¹

The rapid jump in the development of digital technologies in the country is related to the COVID-19 pandemic and the implementation of its control measures. 2020–2021 were distinguished by a significantly increased use of various online shopping and e-banking services, ordering of services via e-government and e-health portals, and approval of documents using electronic signatures. This is essentially progressive, but also increases the risk of discriminating against older people (those who do not have the digital tools or skills to use them). If alternative ways of receiving the necessary services are not provided in time, and they become available only online, it is likely that equal opportunities to use the services will be limited for older persons (the older, the more so). During the period under review, the Office of the Equal Opportunities Ombudsperson (OEOO) received a complaint, e.g., about the Lidl Plus customer loyalty program¹², which can only be used after registering and creating a user account in the Lidl Plus app downloaded to a smart mobile device with internet access. The description of compensations and application submission conditions provided by the Environmental Projects Management Agency under the Ministry of Environment¹³, which indicated that compensation applications are only accepted electronically, was recognized to be a case of indirect age discrimination. Due to the transfer of services to online platforms (without any other alternatives), a significant number of older people have no way of receiving such services. This also applies to the initial procedure for acquiring a very relevant document in Lithuania in 2021 – the Opportunity Passport, which was changed after the complaints of older people, making it possible to obtain this document in other ways.¹⁴

Insufficient efforts of the Government to ensure the provision of reliable, understandable and accessible information related to the management of the COVID-19 pandemic can be distinguished as a general factor that discriminates against older people (and not just them).¹⁵ It can be concluded that the right to be informed in the face of the pandemic was generally poorly implemented. Nevertheless, older people who felt isolated from their usual social contacts and services at the very beginning of the pandemic particularly lacked reliable information.¹⁶ And such an information vacuum was promptly filled with fake and trending news, conspiracy theories, and other information of similar quality, sowing uncertainty, fear, panic, and encouraging people to make the wrong decisions which reduce their quality of life.¹⁷ In summary of the experiences of the COVID-19 pandemic, it can be stated that older people faced discrimination much more often not only in their workplaces, but also in the field of provision of various services. This deepened their social exclusion and isolation, had a negative impact on their mental health, and reduced their trust in society.

However, it should be noted that the impact of this health crisis on the older generation was not always negative. Attempts to establish a link between pandemic control actions and population age restrictions have mobilized leaders of the society to publicly criticize such actions. It became evident that more and more people are able to recognize age discrimination and even take proactive civic actions to combat it by not only defending the rights of the elderly with words, but by also mobilizing volunteers to provide overall practical assistance to the older generation who were suddenly pushed into a bubble of social isolation.¹⁸

After the global public health crisis that has significantly disrupted the daily lives of people, there were still cases of age discrimination in Lithuania in 2020–2021, both in the work environment and in the service sector.

Work environment

Age discrimination has been observed in job advertisements. There were cases of both direct discrimination: UAB Šilėja was searching for a secretary “from 35 years of age”¹⁹; UAB Baltijos Klintis was looking for a “driver of retirement age”²⁰, and of indirect discrimination: “If you are young, <...> send us your CV <...>”; “If you are young, <...>” (UAB Vauksa)²¹. Several provisions of the temporary Law on State Pensions for Scientists, which regulate the conditions for granting and paying state pensions to scientists, were recognized as having signs of age discrimination.²² The Constitutional Court recognized that the provisions of this law on 1) non-granting or non-payment of state pensions for scientists as long as the person has insured income; 2) the fact that the work experience of a doctor or habilitated doctor consists of the time of the person’s scientific work in state research and study institutions of the Republic of Lithuania until that person turns 65; 3) the fact that the time during which the person receives a state pension for scientists is not included in the overall work experience

of a doctor or habilitated doctor, and this conflicts with the Constitution. Meanwhile the procedure for re-granting a state pension for scientists, when a person starts working in a state research or study institution of the Republic of Lithuania after the granting of the said pension and acquires additional scientific work experience, is not established at all in neither this nor other Lithuanian laws.

Field of service provision

A number of complaints regarding age discrimination are related to companies seeking to regulate the flow of service recipients and to attract specific groups of consumers. "Jūsų šeimos klinika" received a warning from the Equal Opportunities Ombudsperson²³ for publishing information about the provision of privileges to young people, enabling them not to "wait in the same queue with the elderly and very ill patients". Such a service advertisement forms negative attitudes towards elderly patients, giving the impression that they should be avoided. UAB Cgates attracted the attention of the OEEO due to setting an age limit of up to 25 in its unlimited internet access promotion aimed at students.²⁴ Such age criterion is unjustified, since the target group of the promotion was students and not people of a certain age. A somewhat unusual case was examined by the OEEO at the beginning of 2020, where it was established that the rights of children under the age of 6 were violated, as they were not allowed to visit the Cat Cafe (UAB Kačių Kavinė) in Vilnius.²⁵ There was also the case where the administration of UAB Šachmatinė in Palanga limited the age of the customers of the company's hotel to the range of 18-50 years.²⁶ In response to the warning issued by the OEEO, they argued that they were simply concerned about the quality night's rest of older people (there are two nightclubs in the building, hence there is noise). It is obvious that, in this case, instead of limiting the age of people who can book the services, all potential customers should simply be informed about the noisy accommodation environment, leaving it up to them to decide whether or not they will be able to rest under such circumstances.

Several complaints regarding age discrimination were related to legal loopholes preventing the sustainability of health care services in the perspective of development of a person's life. E.g., a person of working age, who has received appropriate prosthetic or rehabilitation services and compensation, suddenly loses that right after reaching retirement age, even though his health condition has not improved.²⁷ This happens simply because, after reaching a certain age (without any changes in his health condition), a person is transferred to another service recipient category for which different conditions for service provision and compensation are set.

Field of organization of competitions

A specific group of complaints examined by the OEEO consists of cases, the public disclosure of which would probably send an important message not only to competition organizers. In order to attract new talents in certain business fields, the latter highlight not only the purpose of holding the competition (e.g., "First Book" competition of the Lithuanian Writers' Union Publishing House, Thomas Mann's Youth Essay Contest, competition for awarding of scholarships to film culture or art creators of the Ministry of Education, Science and Sports, contest for receiving the prize of Meilė Lukšienė, etc.), but also set an age limit for participants alongside the main requirements of the competition. The message of the mentioned and similar cases²⁸ is that, in order to influence reality – attract new talents through competitions, we can describe the conditions of any competition using professional criteria, without sorting the applicants according to their calendar age. Age is just a number on a passport that should not provide any privileges or impose restrictions. Learning this lesson will bring us much closer to creating an age-friendly society.

Summary

The coronavirus pandemic during the period under review created challenges for the implementation of the right not to be discriminated against on the basis of age. During the COVID-19 pandemic, older people had to face unjustified prohibitions and hostility both in their workplace and in accessing various services. Rapid development of digital technologies in the country during the pandemic and implementation of COVID-19 control measures also indirectly discriminated against older people. This deepened their social exclusion and isolation, had a negative impact on their mental health, and reduced their trust in society. At the same time, this health crisis revealed a certain civic maturity of the Lithuanian society. Public leaders showed vigilance and educated sensitivity by publicly protesting against attempts to apply population age restrictions as part of the pandemic control measures, and volunteer groups were mobilized to help socially isolated elderly citizens.

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Sexual Orientation and Gender Identity Discrimination

Andrė Jurgaitė

Summary

During the discussed period, particular attention was paid to the rights of LGBTQ+ people in the public sphere. Two LGBTQ+ community marches were held – Vilnius Pride in 2020, and Kaunas Pride which was organized for the first time in Kaunas in 2021. Several parties were elected to the Seimas in 2020, which included certain LGBTQ+ rights issues in their electoral programs. However, no laws were passed to improve the legal status of the LGBTQ+ community during the period under review. This may also have been influenced by the active mobilization of reactionary movements and politicians who were against the LGBTQ+ rights. The draft law on gender-neutral partnerships was rejected at its submission stage and returned for revision, while the draft law on legal recognition of gender identity was not submitted for consideration at all. The attempt to include gender identity among protected characteristics in the Criminal Code and the Code of Administrative Offences was also unsuccessful. However, there have been some positive developments in the field of LGBTQ+ rights during the discussed period. The judgment of the European Court of Human Rights in the case *Beizaras and Levickas v. Lithuania* prompted Lithuanian law enforcement institutions to make systemic changes which would make it possible to fight against hate speech more effectively. Discriminatory restrictions on transgender persons to occupy certain legal positions have been removed, and, at the end of December 2021, the Minister of Justice signed an order allowing transgender persons to change their personal names via an administrative procedure.

In 2020–2021, the LGBTQ+ community was more visible and publicly discussed than ever before. This was also influenced by political processes, the protests and public campaigns organized by the LGBTQ+ community, as well as increased public dissatisfaction with the control and containment of the pandemic and mobilization of reactionary political forces. Seimas elections were held in 2020, and discussions have intensified on the partnership law and the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (also known as the Istanbul Convention). Among other things, this convention also defines the concept of gender-based violence and establishes the prohibition of discrimination based on gender identity in applying the provisions of the Convention.



Vilnius Pride 2020 march, photo from personal archive

At the same time, movements against LGBTQ+ rights and the alleged "ideology of genderism" have also mobilized^{1,2}. Although the number of Lithuanian LGBTQ+ people who have come out is the lowest compared to other EU countries³, the growing public visibility of the LGBTQ+ community and louder discussions on the rights of LGBTQ+ people received negative reactions from part of the public, as well as attacks from political forces that claim to be protectors of "traditional values"⁴.

The fight for visibility and attempts to "delete" LGBTQ+ people are perfectly illustrated by the "flag wars" that took place in 2021, when symbols of support for the LGBTQ+ community that appeared across Vilnius – street crossings^{5,6} and benches painted in rainbow colours⁷, graffiti supporting LGBTQ+ people⁸ – were vandalized⁹ or painted over¹⁰ by homophobic persons, and then restored again¹¹ by people who support the LGBTQ+ community.

Despite the hostile political climate, in 2020–2021, the LGBTQ+ community has loudly raised issues regarding LGBTQ+ rights through protests and marches. In these two years, two Pride marches in a row were organized by the LGBTQ+ community for the very first time – Vilnius Pride LGBTQ+ solidarity march in 2020, and Kaunas Pride march held for the first time in Kaunas in 2021.



Kaunas Pride 2021 march, photo from personal archive.

Freedom of Assembly and Issues Raised by the LGBTQ+ Community

On 11 July 2020, the LGBTQ+ solidarity march Vilnius Pride 2020 took place with the slogan "Let's Show Ourselves"¹² Organizers of the march had three main requirements for state institutions: to ensure a fast, transparent and accessible legal gender recognition and name change procedure, and to guarantee accessible medical transition procedures for all transgender people in Lithuania; to ensure that everyone could marry and adopt, regardless of their gender or that of their partner; and to repeal the provisions of the Law on the Protection of Minors against the Detrimental Effect of Public Information that encourage censorship of LGBTQ+ content.

On 4 September 2021, the Kaunas Pride 2021 march took place with the slogan "We Are Everywhere". The manifesto of the event¹³ raised issues relevant to the community and demanded respect for personal life; appropriate sex education and inclusion of the history of the LGBTQ+ community in school curriculums; non-discrimination in the fields of social security and health protection; ensuring of the rights of transgender persons; protection against hate speech; and elimination of censorship of LGBTQ+ content.

LGBTQ+ community march took place in the city of Kaunas for the first time in 2021. Its organizers had to go to court for the possibility of organizing such an event on Laisvės Avenue. After the march routes presented to the Kaunas City Municipality were rejected three times in a row, the 1st of May Trade Union that coordinated these routes filed a complaint with the Regional Administrative Court regarding refusal of the Kaunas City Municipality to approve the route. The court ordered the Kaunas City Municipality to approve the march route, however the municipality appealed the ruling of the court on the last day of the deadline for filing an appeal. Nevertheless, on the day before the march, the Supreme Administrative Court of Lithuania rejected the appeal of the Kaunas City Municipality, ordering it to approve the route of the march.

There were also similar attempts to restrict the freedom of assembly for the LGBTQ+ community in Vilnius – after the municipality refused to permit holding the first Baltic Pride march for equality in Vilnius in 2010, its organizers defended their right to organize the march in court¹⁴, and the right to hold the said march on Gediminas Avenue in 2013 was also won through court proceedings¹⁵.

LGBTQ+ Rights on the Political Agenda

In 2020, several parties were elected to the Seimas whose electoral programs included consolidation of certain rights of the LGBTQ+ community – the Freedom Party, the Social Democratic Party of Lithuania and the Liberal Movement of the Republic of Lithuania. During the election campaign, the rights of LGBTQ+ persons were emphasized the most by the Freedom Party. After the Seimas elections, a centre-right ruling coalition was formed between the said party, the Homeland Union – Lithuanian Christian Democrats and the Liberal Movement. However, the coalition agreement¹⁶ did not include the issues relevant to the LGBTQ+ community, such as the law on partnership or recognition of gender identity, among its general priorities. Due to different



Kaunas Pride 2021 march, photo by Alex Kochan.

opinions in the Homeland Union – Lithuanian Christian Democrats fraction, only the issue of gender-neutral partnerships was included in the list of "issues of particular relevance to individual coalition partners".¹⁷

In January–February 2021, online signatures were collected for removal of the elected representative of the Freedom Party, Tomas Vytautas Raskevičius, from the post of Chairman of the Seimas Committee on Human Rights – petition initiators who submitted the signatures to the speaker of the Seimas claimed to have collected over 300,000 signatures.¹⁸ Among other things, the homosexual member of the Seimas was accused in the petition of serving the "interests of sexual minorities" and promoting the "homosexuality propaganda". The Board of the Seimas decided that the submitted petition does not comply with the requirements of the Law on Petitions¹⁹, and the speaker of Seimas Viktorija Čmilytė-Nielsen has stated that "calls to remove a parliamentarian from a Seimas committee contradict the principles of democracy"²⁰.

Portrayal of the LGBTQ+ Community in Society

The public portrayal of the LGBTQ+ community has worsened following the active post-election discussions on gender-neutral partnerships and ratification of the Istanbul Convention. According to the media monitoring data²¹ collected by Media4Change, throughout the first quarter of 2021, the LGBTI+* community was mentioned in the public sphere more often in a negative context than in a positive one. LGBTQ+ people have often been talked about in the media without including the voices of the said people – in October 2020–March 2021, interviews of LGBTI+ people were included in only about 7% of all publications on the topic of LGBTI+ rights.²²

In 2021, Lithuania was among nine European countries where growing resistance or regression in the field of transgender rights could be observed.

According to the data of the Diversity Development Group and the Institute of Sociology at Lithuanian Centre for Social Sciences²³, the public's attitudes towards homosexuals have also worsened in 2021 compared to the previous year. In 2021, as many as 62.7% of respondents said that their attitude towards homosexuals has worsened in the last 5 years (compared to 46% in 2020²⁴), and only 12.9% of respondents said that their attitude towards homosexuals has improved (compared to 18% in 2020). There was also an increase in the number of people who would not want to have homosexual persons as their neighbours (41.6% in 2021 and 36% in 2020), would not rent their property to homosexuals (46% in 2021 and 36% in 2020), or would not want to work in the same workplace as homosexuals (27.1% in 2021 and 25% in 2020).

Partnership Law

In May 2021, the draft law on gender-neutral partnership was rejected in the Seimas at its submission stage and returned for revision, since submission of the law lacked two more votes. The first study on same-sex families in Lithuania published in October 2021²⁵ showed that "the current legal regulation does not correspond to the actual situation and expectations of LGBTQIA+ couples living in Lithuania, and culturally determined attitudes and false beliefs about LGBTQIA+ persons is the main obstacle to regulating the rights and responsibilities of LGBTQIA+ couples"²⁶. At the end of 2021, initiators of the partnership law said^{27, 28} that they will re-submit the partnership law to the Seimas only after guaranteed support is secured among the parliamentarians.

* This study used the abbreviation LGBTI+ – Lesbian, Gay, Bisexual, Transgender, Intersex, and Others(+). The term LGBTI is also commonly used in the studies and publications of international organizations. The broadest term mentioned later in this article, in the context of another study, is LGBTQIA+ (by also including queer and asexual/aromantic people to the aforesaid identities). In general, this overview uses the abbreviation LGBTQ+ – Lesbian, Gay, Bisexual, Transgender, Queer, and Others(+) in terms of the Lithuanian community, and by considering the context of Lithuania. The plus sign also includes asexual, aromantic and other people, as well as intersex people who identify with the LGBTQ+ community. In other cases, the abbreviation provided in the cited source is used.

Protection of the Rights of Transgender Persons

According to the "Rainbow Map and Index" published in 2020 and 2021 by the international LGBTI association ILGA-Europe,²⁹ Lithuania is experiencing stagnation in the field of rights of persons belonging to the LGBTI+ community. Based on this index, only 23% of the rights of LGBTI+ persons are ensured, the same as in 2019. While the situation of the rights of LGBTI+ persons improved in other countries, Lithuania fell to 34th position among other 49 European countries (compared to 32th position in 2019). In 2021, Lithuania was among nine European countries where growing resistance or regression in the field of transgender rights could be observed, including the right to recognition of gender identity.³⁰

Although the Civil Code of Lithuania has enshrined the right for an unmarried adult to "change gender" ever since 2003, and the state was obliged to regulate the legal recognition of gender identity by judgment of the ECtHR in the case *L. v. Lithuania*, the law on recognition of gender identity has not yet been adopted.

On the last day of 2021, the Minister of Justice Evelina Dobrovolska signed an order³¹ permitting adult transgender persons diagnosed with "transsexuality" to "change their name and surname to gender-specific forms thereof" as of 1 February 2022, by submitting an application to the civil registry office. This will also require permission from the Ministry of Justice.

Nevertheless, transgender people will still have to apply to court to be able to change their gender marker in documents. The requirement for medical sterilization is no longer applied by courts since 2017, however, in addition to a person's identification with a particular gender, a psychiatric diagnosis of "transsexuality"³² is still required. Transgender persons also cannot be married (and married persons must be divorced). The requirement to be of adult age specified in the Civil Code is often mentioned in court cases, however, in 2021, the court also satisfied the application of a minor for recognition of the gender identity thereof³³.

In 2019–2020, by orders of the Minister of Health and Minister of Justice, discriminatory restrictions on persons with a "transsexuality" diagnosis to assume certain legal positions – judge³⁴, attorney or assistant attorney³⁵, prosecutor³⁶, notary³⁷ or judicial officer³⁸ – have been repealed*. Nevertheless, certain discriminatory attitudes related to psychiatric diagnosis still remain, e.g., people with a "transsexuality" diagnosis cannot adopt children³⁹ or become guardians⁴⁰.

In 2020, the Minister of Education, Science and Sports signed orders allowing transgender persons who have passed the legal gender identity recognition procedure to apply for changing records about their gender, first and last name in diplomas, diploma supplements, study certificates⁴¹, as well as school and graduation certificates⁴². In 2021, the Ministry of Health had also prepared a draft description of the procedure for diagnosis and treatment of gender identity disorders (transsexuality)⁴³, which was still being harmonized during the preparation of this overview.

Sexual Orientation and Gender Identity Discrimination

According to the data of the study on discrimination experienced by LGBTI persons published in 2020 by the European Union Agency for Fundamental Rights⁴⁴, Lithuania took the lead among EU countries in terms of the number of LGBTI people who feel discriminated at work (32%) and who experienced discrimination in one or more of these areas within 12 months prior to the survey: areas of accommodation, health or social security, education and study institutions, cafes, restaurants, bars or night clubs, and shops (55%).

In June 2021, the Office of the Equal Opportunities Ombudsperson (OEOO) issued a warning⁴⁵ for discrimination on the grounds of sexual orientation and disability to the small partnership "Šok į batą" (managing the "Kangoo Club Lietuva") for a video posted on social networks, in which four men sang the words "Kas nešokinės – tas p*daras" ("Anyone who doesn't jump is a fag") while jumping with

* Since 2022, some of the Minister orders mentioned were repealed, as some legal professions no longer require mandatory health check procedures.

member of the Seimas Petras Gražulis. The OEOO based its decision to do so on the explanation of the State Commission of the Lithuanian Language⁴⁶ which recognized the negative connotation and derogatory meaning of the term "p*derastas" ("fag").

Gender identity in Lithuania is still not included among the grounds of non-discrimination in legal norms, which establish an exhaustive list of the grounds of non-discrimination. This makes it difficult to effectively respond to cases of discrimination against transgender people based on their gender identity. At the beginning of 2021, the Equal Opportunities Ombudsperson applied to the Seimas Committee on Human Rights with a proposal to supplement the Law on Equal Opportunities by adding gender identity to the list of prohibited grounds for discrimination. However, in the new version of the Law on Equal Opportunities which entered into force on 1 January 2022, gender identity was not included among the grounds of non-discrimination.

Hate Crimes and Hate Speech

On 14 January 2020, the European Court of Human Rights (ECtHR) issued a judgment in the case *Beizaras and Levickas v. Lithuania*. The ECtHR decided that, by not launching a pre-trial investigation for incitement of hatred against homosexual persons, Lithuanian law enforcement institutions violated the applicants' right to respect for private and family life (Art. 8 of the European Convention on Human Rights (ECHR)) and discriminated against them based on their sexual orientation (Art. 14 of the ECHR). The applicants' right to an effective remedy was also violated (Art. 13 of the ECHR).⁴⁷

In March of 2021, the Minister of Justice, together with a group of members of the Seimas, mostly from the Freedom and Social Democratic parties, submitted amendments to the Criminal Code and Code of Administrative Offences, which, among other things, sought to expand the list of protected characteristics, on the basis of which liability for discrimination and hate crimes can be applied, to include gender identity⁴⁸. However the Freedom Party faction withdrew these amendments due to public outrage, arguing that the imposition of administrative liability for hate speech would restrict the freedom of speech.⁴⁹

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Gender Discrimination

Vilana Pilinkaitė Sotirovič

Summary

Lithuania's progress in the field of gender equality has been quite noticeable over the past two years, after the country rose to the 20th position out of 23 in the European Gender Equality Index. However, positive changes have occurred due to the individual efforts of women and not due to the systematic and consistent work of the government and other institutions in the field of gender equality, which does not guarantee sustainable long-term results. Lithuania is at the bottom of the list compared to other EU countries in the area of balancing work and family life. Women in Lithuania still typically earn less than men, particularly in the age group of women between 29 and 39 years old, when they drop out of the labour market or put their careers on hold after having children. Wage gaps are affected by the still evident division of jobs or roles into "men's" and "women's". Women are more likely to have "less important", non-prestigious jobs and are more likely to work in flexible, non-primary labour markets. The COVID-19 pandemic had the greatest impact on areas with the highest female employment rates. Cultural norms related to traditional gender roles and gender stereotypes are widespread in our society, hindering the implementation of gender equality provisions and behaviour models.

In its analysis of the progress of gender equality in EU member states in 2021, the European Institute for Gender Equality rated Lithuania with 58.4 out of 100 points (EU average is 68). According to this average score, Lithuania was ranked 20th out of 23 positions in the last two years.¹ A significant jump (5.2 points) was noticeable in the area of decision-making, where Lithuania received 39.3 points (EU average is 55), thus moving up by two positions, however, despite the positive change, this indicator is still the worst in Lithuania compared to other indicators. It can be said that the change in the field of decision-making took place due to the proactive actions of women themselves who participated in political activities, put forward their candidacies in the Seimas elections, and assumed leadership positions.²

The highest rating remains in the field of employment, where Lithuania comes closest to full gender equality based on one indicator – the number of employed women and men (91.1 out of 100 points). The worst gender equality indicators remain in the area of balancing work and family life (50.4 out of 100 points), which shows uneven distribution of family responsibilities and household work between women and men, and in the area of knowledge (56.1 points), which shows the prevalence of horizontal gender segregation in the education sector.³ Both of these indicators have remained largely unchanged since 2010. According to experts, the improvement of individual indicators does not mean progress in the field of gender equality. This is due to the fact that gender equality in Lithuania has not yet become an area of standard public policy that would receive sufficient attention.⁴

Issues of balancing work and family life

Lithuania is at the bottom of the list compared to other EU countries in the area of balancing work and family life. Most of the family responsibilities fall on women: 79% of them are responsible for unpaid work at home, compared to 29% of men. 41% of women are also responsible for taking care of their children or grandchildren, and caring for the elderly or people with disabilities (compared to 24% of men). The double work burden assumed by women in both their family and professional life leads to loss of career prospects, wage gaps between women and men, and negative impact on women's material and social situation.⁵

Although an increasing number of men are now taking parental leave in Lithuania, scientists are cautious about these growth trends. The results of a 2020 representative survey of men aged 18–45 who have children show that only 17% of respondents took 1–2 year long parental leave (until their child becomes 1 or 2 years old). Most of them used this option only during the second year of their

child's life. Attitudes towards gender roles at home and in relationships have a significant impact on the decision of which parent should take parental leave.⁶ More than 6 out of 10 surveyed men agreed that "the most important family responsibility of a man is to earn money". This means that in Lithuania men are still viewed as breadwinners, responsible for providing for their families. 44% of respondents agreed that the most important responsibility of a woman is to take care of her home and her family.⁷ With such established gender roles, it is often not even considered who should take parental leave, since the mother automatically assumes this responsibility.

The current 2-year parental leave system is focused on income compensation for the parents and is based on financial gain motives, which does not encourage equal involvement of both parents in childcare. Families tend to opt for the 2-year parental leave plan, which allows them to re-enter employment and receive pay in the second year of their child's life. Men often take parental leave formally during their child's second year, but continue working full-time, while the mother stays at home to actually care for the child. This decision is influenced not only by gender stereotypes, but also by structural reasons such as the wage gap between women and men. In Lithuania, women still typically earn less than men, and the salaries of men better compensate for the reduced salaries of mothers.⁸

Studies have shown that one of the biggest problems in balancing work and family life is lack of various public services to help working people care for their children or other family members. Lithuania has not yet reached the aim of the Barcelona strategy under which at least 33% of children under the age of 3 attend pre-school institutions, therefore a large number of young children between the ages of 1 and 2 are cared for at home.⁹ In the absence of public services, they are quickly supplemented by the supply of the private sector. However, the trend of increasing number of private services shows that the state produces the perception of child care as a private family matter, which the family itself has to deal with.¹⁰ Lack of childcare services places a greater burden on women in caring for children at home, which creates barriers to their employment, better work and career opportunities, wage gap reduction, as well as the eventual establishment of gender equality in society.¹¹

As shown by the results of the public survey of 2021 commissioned by the Office of the Equal Opportunities Ombudsperson (OEOO), half of the Lithuanian population (51%) were unable to balance their personal life with work. The same survey revealed that women experience a lot of stress when attempting to balance work and family commitments. 65% of women admitted that they feel guilty about leaving their young children in the care of others while they work.¹²

Pay Gap Between Women and Men

Women in Lithuania still typically earn less than men. According to the data of the Lithuanian Department of Statistics, the wage gap between women and men reached 12.1% in 2020. However, the decreasing of this gap is slowing down every year. For example, the gap decreased by 1.1% in 2018, by 0.8% in 2019, and by 0.3% in 2020. As every year, the most pronounced wage differences between women and men are observed in companies engaged in financial and insurance activities (33.8%). On average, women earned more than men in only two of the eighteen areas of economic activity – transport and warehousing (-3.5%), and construction (-1.8%). The gap decreased from 14% to 11% in the public sector, and increased from 14.4 to 15.7% in the private sector.¹³

The wage gap between women and men increases in the age group of women between 29 and 39 years old, when they drop out of the labour market or pause their careers after having children, or return to work after parental leave and attempt to balance family and professional life. Men in this age group from 30 to 39 reach the peak of their career, while women temporarily postpone their professional growth. Research data shows that they are usually promoted at the age of 40-49.¹⁴ This is due to the many family responsibilities that women have to bear, and postponement of their professional careers prevents wage growth.

Challenges of the Covid-19 pandemic

Wage gaps are affected by the still evident division of jobs or roles into "men's" and "women's". Women are more likely to have "less important", non-prestigious jobs and are more likely to work in flexible, non-primary labour markets. The main areas of economic activity for women are health care and social work, education, accommodation and catering services. These are often lower paying occupations.¹⁵

These areas were also affected by the COVID-19 pandemic the most. Although the quarantine did not stop the increase in wages, and women's earnings in the public sector grew even faster than men's, however women experienced more difficulties in employment.¹⁶ On the one hand, women work in areas that require a lot of direct contact during the pandemic, such as health care or social work. On the other hand, a large number of women also work in the tourism, hotel or catering service sectors, which faced extremely strict restrictions during the pandemic.¹⁷ More women than men have lost their jobs since the beginning of the quarantine, and more men than women have found work later on. Long-term unemployment rates have become less favourable for women.¹⁸ All of these factors have a negative impact on women's economic status and labour income growth, despite the increasing wages in the public sector.¹⁹

Gender Discrimination

In 2020, inquiries and complaints regarding possible gender discrimination accounted for the largest percentage of all complaints and inquiries received by the OEOO that year: the OEOO received 242 such inquiries (26% of all inquiries) and conducted 37 investigations into possible gender discrimination.²⁰ Discrimination in Lithuania typically occurs in the process of hiring women, when priority is given to other criteria instead of qualifications: whether a woman has children, whether she can be flexible in terms of working hours, and how does she look.²¹ For example, the Equal Opportunities Ombudsperson examined a complaint regarding possible discrimination and harassment on the basis of gender at the Lithuanian exhibition and congress centre LITEXPO, when the candidate was asked about her personal life during a job interview. A member of the employee selection committee asked questions related to childcare and motherhood, commenting that her child's interests would suffer if she had to leave for work for half a year, because "a child of this age needs his mother" and "whether the price of such personal ambitions was not too high?"²² This is one of the examples when insufficient attention is paid to a woman's qualifications and professional skills in the recruitment process. As shown by other studies, similar situations often force highly skilled women to choose less skilled and less paid work, which negatively affects their professional growth and eventually leads to wage gaps between women and men.²³ In 2021, the OEOO received 105 written inquiries and carried out 48 investigations into possible gender discrimination (41 – according to received complaints and 7 – at the initiative of the Ombudsperson).²⁴

Gender Stereotypes and Their Impact on Public Attitudes

In summary of the scientific studies and overviews of public attitudes in Lithuania carried out over the past few years, it can be seen that cultural norms related to traditional gender roles and gender stereotypes are widespread in our society, thus hindering the implementation of changes in gender equality attitudes and behaviour models.²⁵ A survey commissioned by the Equal Opportunities Ombudsperson in 2020 confirms the widespread view that childcare is still considered to be the responsibility of one gender or "woman's work".²⁶ It points out that, despite society's acceptance that fathers and mothers should devote equal time for childcare, there is a prevailing social norm in the Lithuanian society that men should focus more on their careers than on their children.

According to data from a representative public survey, both women and men still tend to agree that a man's career should be more important to him than taking care of his children (Figure 1).

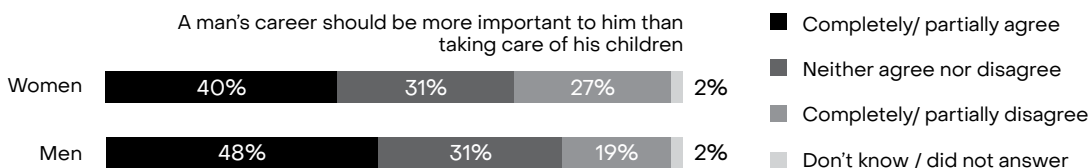


Figure 1. A man's career should be more important to him than taking care of his children
Source: OEOO, A representative survey of public opinion on balancing personal life and work (2020).

It should be noted that women's answers were slightly different from men's – almost a third of women tended to disagree with this statement. And almost one in two surveyed men supported the view of

the traditional male role. Only 6% of men and 11% of women agreed with the statement that a woman's career should be more important to her than taking care of her children. Most of the respondents (59% of both men and women) disagreed with this statement (Figure 2).

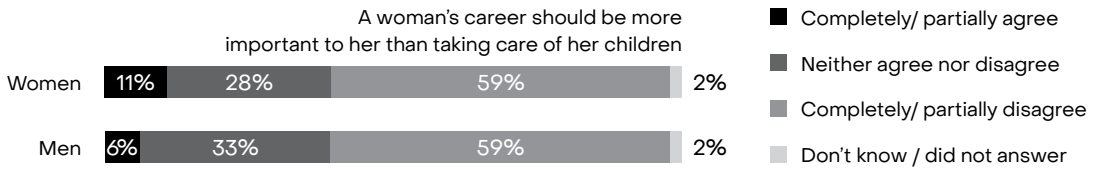


Figure 2. A woman's career should be more important to her than taking care of her children

Source: OEOO, A representative survey of public opinion on balancing personal life and work (2020).

The attitudes of the population show the widespread cultural norm that childcare related matters are more important to a woman and that she is seen as the main caregiver in her family, while men are assigned the role of the breadwinner. A survey of public attitudes conducted in 2021 confirms the same trends in cultural norms and gender stereotypes. This survey has revealed the constant guilt and stress women feel when balancing their family and work commitments: almost 7 in 10 women feel guilty when juggling work and motherhood.²⁷ Media content analysis supplements the insights from public opinion surveys. Different aspects of the representation of women and men are observed, which depict the role of the father as a person who helps raise children and assists the mother in all her childcare responsibilities. The society does not have any expectations or demands for fathers, while the mother is expected to be a self-sacrificing and fully devoted caregiver. Representation of both parents as equal partners in raising a child are not found anywhere in the media.²⁸ Although the social policy measures implemented over the past decades have given a small push to the emergence of active parenting practices in the country, however more significant changes in the dissemination of gender equality ideas have not yet occurred.²⁹

**Most of the family responsibilities fall on women:
79% of them are responsible for unpaid work at home,
compared to 29% of men.**

SOURCES

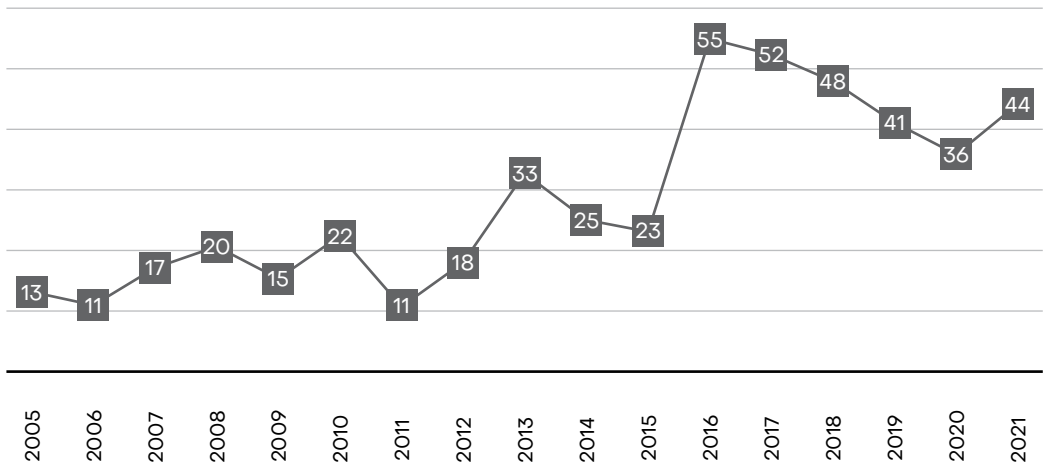
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Disability Discrimination

Ugnė Grigaitė

The Office of the Equal Opportunities Ombudsperson (OEOO) conducted 36 investigations in 2020 and 44 investigations in 2021 regarding possible discrimination on the basis of disability. The number of complaints and consultations on the basis of disability was the highest in 2021 compared to other prevailing discrimination grounds (i.e. gender and age) – as many as 294 persons received consultations by phone. There were complaints about possible violations in the field of service provision and consumer rights protection both in 2020 and 2021. People also appealed because of violations of electoral rights, complained about limited education opportunities, as well as about possible disability discrimination in the job market.^{1,2}

Diagram No. 1. OEOO investigations regarding possible disability discrimination



Reasonable accommodation

In 2020, a representative survey of the opinions of the Lithuanian population "Survey of the opinions of the country's population on discrimination of social groups" was carried out by order of the Department for the Affairs of Persons with Disabilities (DAD) under the Ministry of Social Security and Labour (MSSL)³. The results of the study revealed that the most discriminated social group in Lithuania are "persons with intellectual or mental disabilities" and "persons with physical disabilities", and the environment in which such disabled persons are possibly most discriminated against is the labour market.

A relevant issue is that although the Labour Code⁴ and the Law on Equal Opportunities⁵ oblige employers to take appropriate measures to create conditions for persons with disabilities to obtain employment, work, pursue a career or learning, including appropriate adjustment of facilities and other conditions, lack of such adjustment is still not defined as a separate form of disability discrimination. This is also provided only in the field of labour relations and does not apply to other areas of application of the Law on Equal Opportunities.⁶ It should be noted that reasonable accommodation does not require to hire a person who does not have the necessary competence or skills to perform the job. It is rather "the removal of barriers for an employee or candidate with the necessary education, skills and competence, ensuring that he or she has the opportunity to be hired and perform key job functions, regardless of his or her disability"⁷. Back in 2016, the United Nations (UN) Committee on the Rights

of Persons with Disabilities recommended that Lithuania take all necessary legal and administrative measures to recognize that lack of reasonable accommodation and adjustment of the environment for people with disabilities is one of the forms of disability discrimination.⁸

In 2020, the Human Rights Monitoring Institute and the OEOO issued a memo "Reasonable accommodation of the workplace environment for people with disabilities" ⁹, which includes basic concepts and practical examples. The memo emphasized the importance of universal design, discussed various disabilities and environment adjustment situations, organizational solutions, examples of personal and individual assistance, and physical and technical solutions. Focus is drawn to the importance of raising awareness among all employees, reducing and eliminating negative attitudes towards disability, encouraging to appreciate individuality and diversity at work, and respectfully contributing and helping employees with disabilities integrate into the workplace on an equal basis with others.

Audit of the National Audit Office of Lithuania

In September 2020, the National Audit Office of Lithuania published an audit report on the social integration of persons with disabilities¹⁰. The aim of the audit was to assess whether people with disabilities in Lithuania are provided with the necessary conditions and opportunities to live independently and to fully participate in society and in the labour market. The audit revealed that the social integration policies and actions aimed at persons with disabilities do not provide them with opportunities to live independently in the community and to receive the necessary services based on their individual needs. The development of community services in the country is insufficient, social and employment services are planned and provided without comprehensive assessment of individual needs, there are many systemic gaps and few opportunities for employment in the open labour market, and the labour market itself is not motivated to employ persons with disabilities. Public buildings, transport and websites are not sufficiently adapted for the needs of the disabled, and monitoring of the adaptation of mobile applications is not even being implemented.

Sociological Study of the Population

In 2021, a representative survey of the opinions of the country's population on the perception and evaluation of human rights was carried out by commission of the Human Rights Monitoring Institute.¹¹ As many as 60% of respondents said they did not feel that people with disabilities in Lithuania are able to participate in the economic, social and cultural life of the country equally with everyone. 77% believed that the environment (e.g., streets and buildings) is not properly adapted to the needs of people with disabilities.

As many as 60% of respondents said they did not feel that people with disabilities in Lithuania are able to participate in the economic, social and cultural life of the country equally with everyone.

Approximately one in five people living in Lithuania would not feel comfortable to have a neighbour who has intellectual disability (23%) or has autism (20%), and almost every other respondent (46%) would not want to have a neighbour with mental health disorders. Overall, as many as 55% of the population agree or partially agree with the unrealistic statement that people with mental health difficulties are unpredictable and dangerous. On the other hand, only 5% agree with the statement that the state of Lithuania takes sufficient measures to integrate people with disabilities into society.

Plan for Promoting Non-Discrimination

The 2021–2023 Plan for Promoting Non-Discrimination¹² was approved on 10 December 2020 and includes only one measure (No. 2.1) separately mentioning persons with disabilities. This measure pro-

vides for the training of employees in the field of social services in order to increase the accessibility and quality of social services for people with disabilities, children, families, guardians (carers), elderly persons and persons at social risk. Some of the other measures of this plan are aimed at general grounds for discrimination, including disability, enshrined in the Law on Equal Opportunities. Ministry of Social Security and Labour (MSSL) is the responsible institution, and 50,000 euros are allocated each year for the implementation of this measure.¹³

Changing the Provisions of the Social Services Catalogue

In 2021, the OEEO conducted an investigation¹⁴ of possible discrimination in the provision of secondary health care services to people with mobility disabilities. It was established that, in cases where a person requires secondary health care services that can only be provided in health care institutions, people with mobility disabilities were not provided with opportunities to use transportation organization service available in municipalities.¹⁵

After the recommendation of the OEEO regarding transportation services, the MSSL changed the provisions of the Social Services Catalogue, defining that "transportation services are provided as needed to persons with mobility difficulties due to disability, illness or old age, if these persons cannot use public or private transport due to the said reasons or due to insufficient funds. The transport organization services also include assistance provided according to individual needs by escorting the person with disability from his/her home to the vehicle and from the vehicle to the object of destination."^{16,17}

Amendments to the Law on Education

Amendments to the Law on Education were adopted in 2021¹⁸, under which students with severe and profound disabilities can study in general education institutions or classes intended for students with established "special educational needs" until the end of the school year during which they turn 21. Before the adoption of these amendments, the said students were removed from classes immediately after their birthday – even before the end of the school year. It should be noted that this amendment to the law contributed to a very small extent to the solution of the problem of lack of opportunities for employment and education among persons with severe disabilities who turn 21 years old.¹⁹

The most discriminated social group in Lithuania are “persons with intellectual or mental disabilities” and “persons with physical disabilities”, and the environment in which such disabled persons are possibly most discriminated against is the labour market

Women with Disabilities

Discrimination on the grounds of both gender and disability is defined by the UN Committee on the Rights of Persons with Disabilities as multiple discrimination. In 2021, the non-governmental organization Centre for Equality Advancement commissioned a study in Panevėžys city and district, and Tauragė district regarding public attitudes towards women with disabilities. 564 people were interviewed during the study.²⁰

The study has revealed that every other respondent either fully or partially agrees with the statement that forced sterilization and/or forced abortion for women with certain disabilities is justified. 37% of respondents agreed with the statement that women with disabilities behave irresponsibly when choosing to have children, and 22% believed that an abusive husband should not be a reason for a woman with disability to seek divorce.²¹

The Centre for Equality Advancement also conducted a focus group study with 12 women with disabilities from Panevėžys and Tauragė in order to determine how women affected by disability assess the difficulties or obstacles faced by them. The study revealed a range of problems of insufficient involvement of women in social and political activities: "exclusion, discrimination experiences, barriers in the environment, and gender stereotypes not only likely prevent the involvement of women with disabilities, but also induce their self-doubt, which in turn makes participation in various activities an even greater challenge".²²

Challenges of the COVID-19 Pandemic

According to the OEEO, restricted rights of people with disabilities caused by the restrictions imposed by the COVID-19 pandemic became particularly apparent in 2020 and 2021. People with disabilities had limited access to health care services and were subject to unreasonable demands to wear face masks in public without exception and without consideration to certain medical conditions or disabilities.²³ Overall, opportunities for people with disabilities have been more limited during the COVID-19 pandemic than ever before with decreasing earnings and even cases of not being able to afford food. Despite the fact that isolation is experienced by many people with disabilities regardless of the pandemic, the reduction of social connections was a big challenge for many of these people, putting them at risk of suffering from severe psychological difficulties.²⁴

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Nationality and ethnic origin-based discrimination

Vita Kontvainė

The most significant change in legal regulation that affected the situation of national minorities in Lithuania was the Law on the Spelling of the Name and Surname in Documents adopted at the beginning of 2022, which included the right to write the names and surnames in the personal documents of citizens of the Republic of Lithuania of non-Lithuanian nationality in the Latin alphabet (without diacritics). Another legal act important to national minorities is the Law on National Minorities, which was drawn up by a working group at the beginning of 2021, but was not considered by the Seimas. There were important changes in Vilnius in the area of Roma integration – the last houses of the Kirtimai Tabor settlement were demolished in May of 2020, and the new Vilnius Roma Integration Programme 2020–2023 was approved in August, marking a breakthrough in the field of social integration of the Roma. Unlike in the previous Roma integration programmes in Vilnius, focus was placed on the development of areas of education, social services, health and housing instead of crime prevention and funding of police. However, implementation of the programme in the first two years was characterized by somewhat uneven financing and inefficiency of some of the planned measures (mainly in the area of housing). Lack of political will to consistently address the issue of Roma integration was observed at the state level – the new state action plan for the integration of Roma people into Lithuanian society was not yet approved by December 2021 (the old one expired at the end of 2020).

Legal Regulation: Key Changes

In 2020, the law on national minorities has been absent for ten years in Lithuania. In 2019, a working group established by the Director of the Department of National Minorities under the Government of the Republic of Lithuania prepared a Draft Law on National Minorities at the beginning of 2021 which was supposed to replace the old Law on National Minorities – the latter has been effective until 2010. The unpublished draft law was publicly criticized in 2021 for allegedly weakening the status of the national language of Lithuania enshrined in the Constitution, since it provided for the right to "apply orally or in writing (via applications) to municipal public administration entities and/or their units located in the territory of the relevant municipality in the language of a national minority"¹. The draft law was not registered and was not publicly announced at the time of preparation of the report.

In 2020, the law on national minorities has been absent for ten years in Lithuania.

At the end of 2021, the Law on the Spelling of the Name and Surname in Documents was also registered in the Seimas and adopted on 8 January 2022², in which exceptions were established where names and surnames could be written in the letters of the Latin alphabet. This right (among other groups) is also granted to citizens of the Republic of Lithuania of non-Lithuanian nationality and citizens of the Republic of Lithuania whose parent, grandparent, great-grandparent or other direct ancestor had or has the citizenship of another country, and whose name and/or surname is written in the said characters in a document source. Prior to the adoption of this law, on 8 September 2021, the Ministry of Justice issued recommendations to Civil Registry Offices to write the surnames of children in non-Lithuanian Latin characters when a court has already permitted one member of the same family, a citizen of the Republic of Lithuania, to write his/her surname with the letters Q, W, X.³ Adoption of the new Law on the Spelling of the Name and Surname in Documents is important for the Polish community in Lithuania, which has been publicly raising this issue for a long time – the adopted law should end the decades-long debate over the original spelling of personal names in documents. Several changes have occurred in the education of national minorities during the analysed period. As

of September 2021, pre-school age children educated in kindergartens and preschools in a national minority language will be educated in Lithuanian for at least 5 hours a week. Such requirements were not applied to pre-school age children prior to these changes, and weekly lessons in the Lithuanian language in preschool groups will become 1 hour longer.⁴ It is also planned to return the option to take a state exam of a national minority language (Belarusian, Polish, Russian, German) – 2022 will be the year of the start of preparation for the matriculation exam.⁵

A strategy for preservation and development of the Polish language and community in Lithuania "Vilnius Region 2040" was publicly announced in 2021 and presented to the Speaker of the Seimas of the Republic of Lithuania by representatives of the Polish Discussion Club.⁶ The prepared strategy reviews the current situation of the Polish national minority in Lithuania in the economic, cultural and social fields, analyses its strengths and weaknesses, current and potential opportunities, and real and possible threats, as well as defines the aspirational vision of the Polish community in Lithuania (2040).⁷ The strategy was prepared by external experts (mostly from Poland), based on the information gathered during strategic thematic group seminars and individual interviews with Polish community figures and experts in Lithuania.

Latest Data on the Situation of National Minorities in Lithuania

A census of the population of Lithuania was carried out in 2021, which was conducted for the first time in electronic form, i.e. on the basis of administrative data, by using the data in the main state registers and information systems. An additional statistical study was carried out to collect statistical information about the population by nationality, mother tongue, knowledge of other languages and professed faith⁸, since information about the population based on mother tongue, knowledge of other languages and professed faith is not collected and stored in state registers, and part of the residents of Lithuania have not specified their nationality. The decision to abandon the general population census conducted in the usual way (via interviews) was criticized by representatives of national minority groups, fearing that the chosen survey method would not reflect the current ethnic composition of the population.⁹ Criticism of the census method was also voiced by scientists (due to inaccurate selection of categories for naming ethnic identity and national affiliation, negligent approach, and errors in the presented classification of nationalities)¹⁰ and representatives of non-governmental organizations working in the field of human rights (due to compilation of the population census questionnaire only in the national language, and due to failure to provide options to select two or more nationalities)¹¹. The census data published in December 2021 indicates that the number of Russians and Belarusians in Lithuania decreased by about 20%, however the census data by nationality has not yet been analysed in detail.¹²

Studies of public attitudes, which analyse social distance in terms of various ethnic groups, show that in 2021 the number of Lithuanians who do not want to have representatives of another ethnic group as their neighbours has slightly increased. The most pronounced differences compared to 2019 were recorded among several ethnic groups – Chinese, Iraqis, Syrians and Chechens (see Fig. 1). Changed attitudes towards the Chinese group can be associated with the public discourse of the COVID-19 pandemic and foreign policy tensions in relations with China after the opening of the Taiwanese Representative Office in Lithuania.¹³ Meanwhile, the increased reluctance to have Iraqis and Syrians as neighbours can be seen as a reflection of the crisis situation that began in 2021, which was caused by increased irregular migration flows on the Lithuania-Belarus border. The most unfavourably viewed ethnic group in Lithuania continues to be the Roma – almost two-thirds (61%) of respondents indicated in 2021 that they would not want to live near Roma people, with deviations recorded over the past year only within the margin of error.¹⁴

A monitoring study conducted by Media4Change in 2020 analysed how groups of the society experiencing the greatest social distance, including representatives of different ethnic groups (Poles, Russians, Jews and Roma), are represented in the Lithuanian media. Data collected during the analysis shows that the most frequently mentioned group in the media is Jews (10,757 works), and the least mentioned is the Roma ethnic group (1,567 works). The media was mostly neutral toward most of the studied groups: 74–87% of content can be classified as neutral, except for the Roma group, where neutral media content reaches only 55%. The representation of Roma in the media is in the lead with negative content, reaching 34%. The Roma group stands out in that there is a relatively high number of crime-related publications emphasizing their national identity.¹⁵ These conclusions

Which of the listed groups would you not want to have as neighbours?
 Answers: "I would not like to live near", %

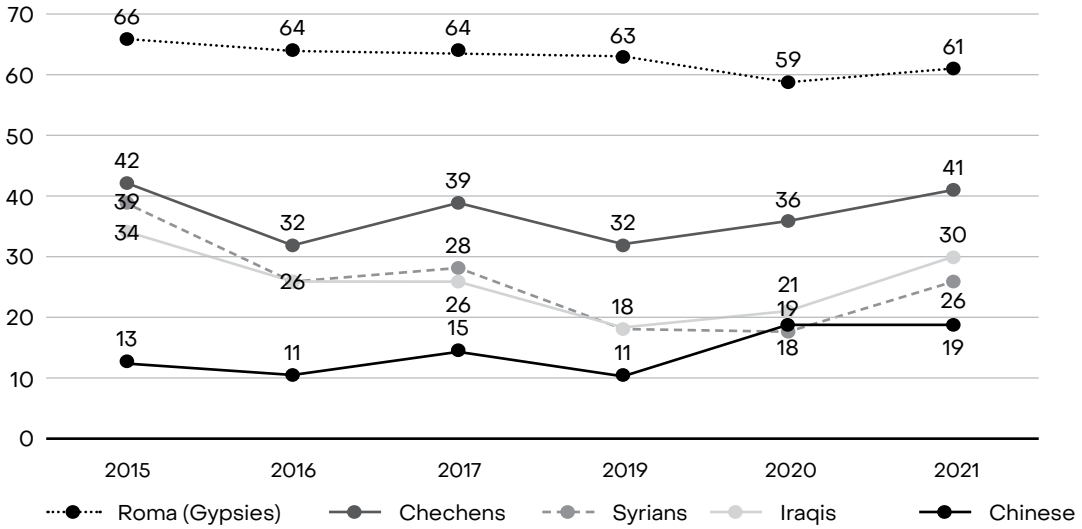


Figure 1. Changes in public attitudes towards individual ethnic groups in 2015 – 2021

are also confirmed by data from the media monitoring study published by Mediaskopas in 2021 – the Roma ethnic group was mostly mentioned in a negative context, with words such as "hate", "crime", "criminal", "court", "unemployment", "drugs" and others being associated with it in articles and reports.¹⁶

Discrimination: OEOO Complaints

In 2020, the Office of the Equal Opportunities Ombudsman (OEOO) received 18 complaints about possible discrimination based on race, nationality, language, origin and ethnicity. This number was similar to that of previous years. Most of the investigations conducted in 2020 regarding possible discrimination on the basis of race, nationality, language, origin and ethnicity were closed due to lack of objective data on the committed violation, or complaints were recognized as unfounded after the specified violations could not be confirmed. One complaint on the basis of language was found to be justified.¹⁷

The Situation of Roma

The last houses in the Kirtimai Roma settlement in Vilnius were demolished in May of 2020, and the Vilnius Roma Integration Programme for 2020–2023 was approved by the Council of the Vilnius City Municipality on August 26 of the same year.¹⁸ Non-governmental organizations working with the Vilnius Roma community welcomed the launch of the programme, noting the positive policy changes and provided integration measures in the fields of education, health care, culture, labour market and right to housing, however concern was also expressed that some of the planned measures were not implemented due to lack of funding in the first year of implementation of the programme.¹⁹ The delayed approval of the Roma integration programme (the previous 2016–2019 programme for integration of the Vilnius (Kirtimai) Roma Tabor community into society ended in December 2019²⁰) and the limited allocation of funds for addressing the main challenges faced by the Roma show that Lithuania lacks the political will to consistently address the challenges of social integration experienced by the Roma ethnic group. In November 2021, the Vilnius City Council made a decision to abandon one of the measures of the programme, on the basis of which former residents of the Kirtimai settlement could apply to the municipality for housing rent compensation if their rented accommodation was not in the territory of the Vilnius City Municipality (it was planned to cover these compensations with funds from the Vilnius City Municipality budget). As a result, the total planned budget of the Vilnius Roma Integration Programme for 2020–2023 decreased by EUR 290,000 (from EUR 1,235,060 to EUR 945,060).²¹

The right to housing remains the area which is the most challenging for Roma people (especially in Vilnius). The possibility of renting suitable housing is limited both due to discriminatory practices of landlords and gaps in the Law on Assistance for Housing Purchase or Rent, as well as the ineffectiveness of the actions of Vilnius City Municipality in solving the problems faced by Roma people who have moved out of the Kirtimai Tabor. After the demolition of the Kirtimai Tabor, most Roma families looked for housing in the private housing rental market, but a significant number of them were refused housing due to their nationality. Efforts of the Vilnius City Municipality to find mediators able to help Roma rent housing in Vilnius did not yield the desired results. Difficulties were also caused by provisions of the Law on Assistance for Housing Purchase or Rent²², which establish the principles of awarding rent compensation to persons with low income. There are two important principles that have created challenges in obtaining housing rent compensation: (1) compensation may be awarded for the rental of housing located in the same municipality where the applicant's place of residence is declared; (2) rental housing must provide at least 10 square meters of space per person (family members) in order to be eligible for compensation. Due to the first principle, some Roma could not receive rent compensation, since they could not find housing in the city of Vilnius and were forced to search for housing in the Vilnius district (the municipality programme measure which in this case provided for rent compensation from the municipality budget was removed from the programme in November 2021²³). Due to the second principle, families found themselves in difficult situations after having more children, since in this case they could no longer receive housing compensation, and, at the same time, would lose the housing itself due to it no longer meeting the established space requirements for one person (a rented 36 sq. m apartment was considered to be too small for a family that has grown from three to four family members, and therefore rent compensation was no longer granted), or faced difficulties in officially including grandparents into their family structure (due to the narrow legal definition of a family).²⁴

The new state action plan for integration of Roma into Lithuanian society has not yet been approved at the time of preparation of the report, although this is required by the EU Roma Strategic Framework for Equality, Inclusion and Participation for 2020–2030.²⁵ The previous 2015–2020 action plan for Roma integration into Lithuanian society²⁶ expired at the end of 2020.

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Hate Crimes

Goda Jurevičiūtė

During the period under review, Lithuanian state institutions and agencies took concrete steps to achieve a more effective response to hate crimes and hate speech, from building capacities of law enforcement officers to strengthening inter-institutional cooperation and cooperation with non-governmental organizations. The judgment of the European Court of Human Rights in the case *Beizaras and Levickas v. Lithuania* at the beginning of 2020 regarding inaction of law enforcement authorities in terms of hateful comments on Facebook based on sexual orientation has contributed significantly to the positive changes. The years 2020–2021 were also marked by numerous initiatives of non-governmental organizations, mostly related to raising public awareness. However, the proposal of the Ministry of Justice to partially decriminalize hate speech in early 2021 and provide for administrative liability for it was withdrawn due to public outrage, even though it was supported by law enforcement institutions and non-governmental organizations. Although, during the period under review, law enforcement authorities registered 2–3 times more cases of incitement to hatred than in 2018–2019, these figures hardly reflect the true extent of the prevalence of such criminal offences. There is also the problematic fact that, although introduced in theory, the concepts of hate speech and hate crime are still not distinguished by law enforcement institutions and courts.

Beizaras and Levickas v. Lithuania

Criminal acts of incitement to hatred, which can be committed in any form (verbally, in writing, via video recording, etc.) by publicly disseminating information of discriminatory and inciting nature, are regulated in Lithuania under Article 170(2, 3) and Article 170² of the Criminal Code (CrC). The components of criminal acts provided for in these articles are formal and considered complete upon making of the prohibited public statements or calls, regardless of the consequences. Courts assess each specific criminal act 1) based on the *ultima ratio* principle, meaning that criminal liability should only be applied as a measure of last resort for the most severe violations of the law, and 2) based on its gravity – whether a specific comment, statement or action is so dangerous that it requires the application of the strictest – criminal – responsibility.¹

Lithuanian courts formulated two main criteria by which they assessed the gravity of incitement to hatred: 1) the manner in which hatred was spread, and 2) the systematic nature or intensity of the unlawful acts. The courts examined how widely the information was spread in the first case, and considered the number of written comments as well as the duration and intensity of unlawful actions in the second case.² Therefore, criminal responsibility for a single online comment was generally not being applied, since it did not purportedly prove a person's intent to incite hatred.³

This was one of the practices criticized by the European Court of Human Rights (ECtHR) in its judgment of 14 January 2020 in the case *Beizaras and Levickas v. Lithuania*. The ECtHR established in the said case that, by refusing to launch a pre-trial investigation regarding homophobic and hateful comments made under the photo of the kissing applicants posted on the Facebook account of one of the applicants, discriminated against them due to their sexual orientation, violated their right to respect for private and family life (Article 8 and Article 14 of the European Convention on Human Rights (ECHR)), as well as the right to an effective remedy (Article 13 of the ECHR).⁴

The ECtHR recognized that criminal sanctions, including those imposed on persons responsible for the most serious expressions of hatred that incite violence, can only be applied as an *ultima ratio* measure. However, the court emphasized that only effective criminal law mechanisms can provide adequate protection and act as a deterrent in cases where acts considered to be serious crimes are directed against a person's physical or mental integrity. The court also emphasized that direct verbal attacks and threats of physical violence based on discrimination should be dealt with under criminal law (paragraph 111). In addition, when assessing the criterion of the act of incitement to hatred to be of

a systematic nature in deciding whether to impose criminal responsibility, the ECtHR noted that even a single hateful comment, especially if it is said in it that people should be "killed", as it was in this case, must be taken seriously (paragraph 127).

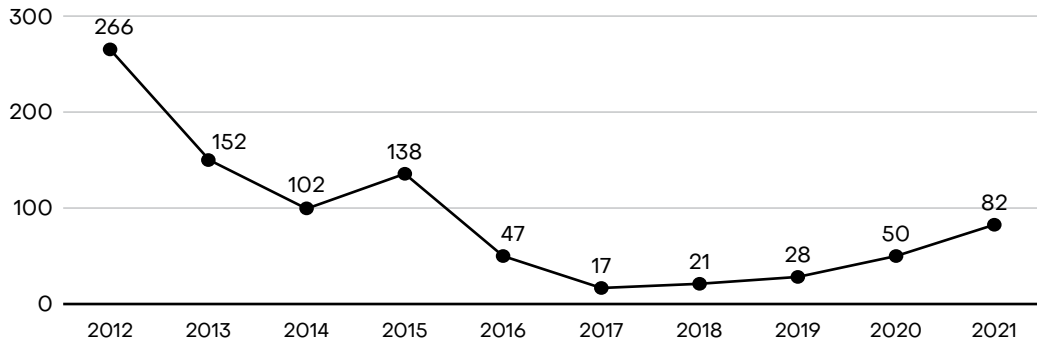
It should be mentioned that, during the period under review, the ECtHR sent another case to the Government regarding a pre-trial investigation for homophobic, hateful comments posted under the applicant's article, which was initially not even launched and then closed after a decision was made that the comments were not dangerous enough to be subject to criminal responsibility.⁵

In May 2021, in its comment on case law and developments in the field of hate crime and incitement to hatred investigations in 2020, a representative of the Prosecutor General's Office noted that law enforcement officers are increasingly taking into account the case law of the ECtHR and its observations on the application of the systematic nature criterion – after assessment of the social context and the content of comments, pre-trial investigations are launched even in cases of a single comment. ⁶ He has also informed that investigation was renewed regarding some of the comments mentioned in the case *Valaitis v. Lithuania*.

To implement the judgment of the ECtHR in the case *Beizaras and Levickas v. Lithuania*, the Prosecutor's Offices of Vilnius District and Klaipėda District took steps to review the decisions refusing to launch a pre-trial investigation and suspending or closing the pre-trial investigation regarding hate speech and hate crimes. Measures were also taken in Lithuanian prosecutor's offices to ensure that complaints regarding possible hate speech and hate crimes are examined by prosecutors of appropriate specialization.⁷

It is likely that such steps contributed to the increase in registered criminal acts under Article 170 of the Criminal Code during the period under review: 28 cases of incitement to hatred were registered in 2019, 50 cases in 2020, and 82 cases in 2021. This is almost 5 times more than in 2017, when the number of criminal acts registered under Article 170 of the Criminal Code was the lowest in the last ten years. According to official statistics, during the period under review, incitement to hatred was most often directed against homosexual persons (24 criminal acts in 2020, 67 in 2021) and national minorities (13 cases in 2020, 6 in 2021).⁸

Criminal acts registered under Art. 170 of the CrC (2012 – 2021)



Hate Crimes vs Hate Speech

Another important step taken by law enforcement authorities during the period under review was strengthening the response to hate crimes and hate speech. Methodological Recommendations on the Features of Conducting, Organizing and Guiding the Pre-Trial Investigation of Hate Crimes and Hate Speech (hereinafter – Methodological Recommendations)⁹ were updated and approved by the Prosecutor General on 1 April 2020.

Among other things, in these recommendations the judgment of the ECtHR in the case *Beizaras and Levickas v. Lithuania* has been taken into account as well as case law in other similar cases, by

distinguishing the factors assessed by the ECtHR in deciding whether restriction of the right to freedom of expression in a particular case was necessary in a democratic society (paragraphs 80 – 80.3.4.3). The Methodological Recommendations clearly distinguished and defined the concepts of "hate crime" and "hate speech". Paragraph 14 states that a hate crime is any criminal act motivated by hatred, bias and/or prejudice against a group of persons on the basis of age, gender, sexual orientation, disability, race, nationality, language, origin, social status, faith, belief or opinion. In other words, a hate crime consists of two main elements: 1) an unlawful act and 2) hatred, bias and/or prejudice. Whereas hate speech is defined in paragraph 16 as "the public dissemination (verbally, in writing or in other form) of information (ideas, opinions, false facts) that mocks, insults, incites hatred or incites discrimination, violence or physical abuse against a group of people or a person belonging to it" due to the same protected characteristics listed in the definition of hate crime. The said recommendations not only provide a definition of these concepts and name how they are criminalized in Lithuania (paragraphs 15 and 16), but also "recommend to distinguish hate crimes from hate speech according to three main criteria: the nature of the acts, their dangerousness and the specifics of the process of gathering and presenting evidence" (paragraph 17).

However, according to established practice in Lithuania, articles regulating hate speech (Art. 170(2, 3) of the CrC) are also applied in cases of hate crimes. Apart from a few cases brought to court, in which offenders were charged under Art. 129 ("Murder") and Paragraph 13 of Art. 138(2) ("Non-Severe Health Impairment") (qualifying characteristic – "with the aim to express hatred against a group of people or a person belonging to it because of age, gender, sexual orientation, disability, race, nationality, language, origin, social status, religion, belief or opinion")¹⁰, usually the "hate" aspect of a crime is recorded as "incitement to hatred", i.e. a person is charged with a certain criminal offence (typically "Violation of Public Order" provided for under Art. 284 of the CrC) together with the application of Art. 170(2, 3) of the CrC as a full concurrence.¹¹

Both the OSCE Office for Democratic Institutions and Human Rights¹² and the EU High Level Group on combating racism, xenophobia and other forms of intolerance believe that such interweaving of provisions regulating hate crimes and hate speech in case law is problematic. The EU High Level Group on combating racism, xenophobia and other forms of intolerance has noticed that "the complex and two-sided nature of a hate crime is what distinguishes it from other crimes motivated by prejudice, bias or discrimination, and particularly hate speech related to (...) expressions of racism, xenophobia and other forms of hatred which can be qualified as specific and independent criminal acts, such as, for example, the criminal act of public incitement according to Article 1 of the Framework Decision.¹³ A correct and general understanding of this conceptual difference in national and other jurisdictions is fundamental to avoid confusion between the two concepts at the application level, when hate speech provisions are incorrectly applied in cases of hate crime (...). Such conflation severely undermines the effectiveness of the criminal justice response, given that the different nature of these two criminal acts raises very different issues relating to their investigation, prosecution, trial and sentencing."¹⁴

As already noted during the previous period under review¹⁵, due to the practice of charging with acts of incitement to hatred in cases of hate crimes, such hate crimes are classified in official statistics as cases of incitement to hatred (CrC 170). This essentially distorts the actual situation of hate-motivated criminal acts in Lithuania, since violent crimes committed outside the Internet are rarely reflected in hate crime statistics. Moreover, public visibility is a necessary characteristic of criminal acts of incitement to hatred, therefore a question arises whether law enforcement officers are able to register hate crimes that take place non-publicly due to the existing practice and habit of seeing an element of hatred only through the prism of incitement to hatred.

Although updates to the Methodological Recommendations are a welcome change, their text has not been coordinated with non-governmental organizations, therefore some of the used concepts are out of step with the human rights discourse. For example, paragraph 33.1 includes such archaic concepts as "Mongoloid", "Negroid", "Europoid". And disability with various disability situations defined in paragraphs 39 – 41 do not correspond to the concept of disability introduced in the UN Convention on the Rights of Persons with Disabilities. The definition and interpretation of the "gender" characteristic and other concepts related thereto are also rather problematic. Therefore, it is recommended to review these and other concepts in consultation with non-governmental organizations, and align them with human rights standards.

The Methodological Recommendations state that hate crimes in Lithuania are criminalized in three ways (paragraph 15), including as independent acts (paragraph 15.1), by indicating specific articles of the CrC. Article 312(2) is also mentioned ("a person who carries out acts of vandalism in a cemetery or another place of public respect or desecrates a grave or another place of public respect for racist, nationalist or religious reasons"), however the Methodological Recommendations do not specify that such a criminal act can be committed via alternative actions, therefore this article can also be applied in the case of a hate crime, if it was committed due to racial, national or religious motives, as well as in other cases. A similar observation can also be made regarding Article 171 of the CrC ("Disturbance of Religious Ceremonies or Religious Celebrations"). As shown by the so-called "Zero Live Show" case examined by the Supreme Court of Lithuania during the period under review, the criminal offense under this article may have nothing to do with hate crimes.¹⁶ The Methodological Recommendations should reflect this issue so that criminal acts registered under these articles would not be automatically classified as hate crimes.

Improvement of Competencies

The period under review was marked by a number of initiatives aimed at improving the competencies of law enforcement officers in identifying and investigating hate crimes (hate crimes and incitement to hatred), and in responding to the needs of communities vulnerable to hate crimes. The training methodology of the police officer qualification improvement programme "Actions of Officers in Cases of Hate Crimes and Actions to Prevent Hate Crimes" (approved in 2019) was prepared in 2020.¹⁷ During the period under review, 319 police officers were trained according to the said methodology.¹⁸ In 2020, a remote learning course was also prepared on this topic, which was available in the virtual learning environment of the Lithuanian Police School. This 10-academic-hour course was taught by human rights activists, lawyers, police officers and prosecutors.¹⁹

During the period under review, training for law enforcement officers and judges was also carried out by the Office of the Equal Opportunities Ombudsperson, the Office of the Inspector of Journalist Ethics, and the National Courts Administration. In addition, officer training was also conducted by representatives of the OSCE Office for Democratic Institutions and Human Rights.²⁰

Meetings between law enforcement officers and communities vulnerable to hate crimes were held in 5 major Lithuanian cities in 2020 in order to discuss the needs and expectations of communities and victims of hate crimes regarding the work of law enforcement officers, cooperation problems and opportunities. The meetings were attended by 41 police officers, 14 prosecutors and 60 representatives of vulnerable communities and NGOs.²¹ These meetings resulted in the development of a practical guide for law enforcement officers "Working with Communities Vulnerable to Hate Crimes".²²

During the period under review, the "Working Group for Promoting an Effective Response to Hate Crimes and Hate Speech" was established under the Ministry of the Interior.²³ Representatives of public bodies and institutions and non-governmental organizations participate in the activities of this working group, and these meetings can potentially be the space where the most important issues of response to hate crimes are discussed and resolved. However, despite the prepared activity plan for 2020–2022²⁴, during the period under review, it was difficult for the working group to set specific goals and objectives that would direct members of the group toward a specific result, therefore it existed more as a discussion forum or for holding competence-enhancing seminars with foreign experts.

During the training, efforts were made not only to familiarize law enforcement officers with the concept and legal regulation of hate crimes, but to also sensitize them and convey to them why it is important to properly respond to hate crimes and to the needs of victims. However, a survey of law enforcement officers conducted in March 2021 revealed that although 61% of respondents agreed that hatred and its expression is a serious problem, as many as 34.5% of them believed that victims of hate crimes provoke aggression themselves with their behaviour, clothing, etc., and almost 47% agreed with the statement that some vulnerable groups complain unnecessarily.²⁵ These survey results show that addressing the attitudes of law enforcement officers is one of the most important objectives in order to effectively respond to hate crimes, therefore it is recommended to conduct regular surveys on the attitudes of officers (at least every few years).

Awareness-Raising Campaigns

In 2020–2021, public institutions and non-governmental organizations carried out a number of initiatives aimed at making the public aware of the impact of hate crimes and encouraging people to report such crimes.²⁶

One of the most important innovations is that, for the first time in Lithuania, an alternative platform for reporting hate crimes has been created at <https://manoteises.lt/pranesk/>, which is administered by the Lithuanian Centre for Human Rights. The platform also enables to notify the police when reporting a hate crime. In order to inform the public about this alternative platform, 5 videos were initially created in which 6 victims of hate crimes talk about their experiences.²⁷ Later on, the platform was promoted through the daugiaumeiles.lt campaign with the slogan "There's only one step from hate to love. But haters won't be the first ones to take it. It is up to you! Always report hateful comments online or elsewhere to the police."²⁸

The Equal Opportunities Ombudsperson has also campaigned on hate speech and its harm, creating the platform "Nepyk, a?" at <https://nepyka.lt/> through which hate crimes can also be reported. The reporting system was integrated into the platform administered by the Lithuanian Centre for Human Rights.

Despite various campaigns to raise public awareness of hate crime and the impact of hate speech, the initiative of the Ministry of Justice at the beginning of 2021 to partially decriminalize acts of incitement to hatred, transfer the acts of "ridicule" and "contempt" referred to in Article 170(2) of the CrC to the Code of Administrative Offenses, and impose fines for spreading hate speech²⁹ could not be implemented, even though it had the support of law enforcement authorities and non-governmental organizations working in this area^{30,31}. This was due to the fact that there was a public outcry over the proposed amendments, arguing that the application of administrative responsibility for hate speech would severely limit freedom of speech.³² Law enforcement officers and the courts were left to continue to solve the dilemma of how, in the absence of other alternatives, to protect communities vulnerable to hate speech, and at the same time apply criminal responsibility only in line with the principle of *ultima ratio*.

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Right to
a Fair Trial

05

Rights of Suspects

Karolis Liutkevičius

Most suspects are defended by state-funded lawyers appointed by the State Guaranteed Legal Aid Service throughout the criminal procedure. Criminal cases make up the majority of the appointments of this service – in 2020, state-funded lawyers participated in 26,102 criminal cases, accounting for 71% of all cases where lawyers were appointed by the said service.¹

One of the key problems of state-guaranteed legal aid services is their quality. This problem is largely caused by the low remuneration for providing legal aid compared to the private sector, as well as the high workload and uneven distribution thereof. As indicated in the conclusions of the monograph on legal aid presented by the Law Institute of Lithuania in 2020, a large number of highly qualified lawyers in Lithuania typically refuse to provide legal aid due to the said reasons.² Due to poor quality legal aid services and the dependence of many suspects on these services, there is a risk of systematically inadequate legal representation and violations of integrity of the criminal procedure.

There are individual cases where this problem is deliberately abused: pre-trial investigation officers intentionally recommend summoning or summon a state-funded lawyer for a suspect who is able to hire his own lawyer. Upon arrival, the state-funded lawyer typically acts as a passive observer, thus facilitating the process for the investigators.³ Such cases can be considered purposeful violations of a person's right to a fair trial and defence.

Additional challenges to the quality of legal aid in 2020-2021 were also caused by the COVID-19 pandemic. Many processes were being moved to online platforms and criminal procedures were no exception: amendments to the Code of Criminal Procedure were adopted in 2021, allowing (if necessary) pre-trial investigation actions and case hearings to be carried out via video conferences.⁴ The Ministry of Justice points out that, during the pandemic, state-guaranteed legal aid was mostly provided by remote means.⁵

Due to poor quality legal aid services and the dependence of many suspects on these services, there is a risk of systematically inadequate legal representation and violations of integrity of the criminal procedure.

Given the fact that lawyers providing legal aid services often meet the defendants for the first time only during the carrying out of procedural actions⁶, remote participation in them reduces the likelihood that the lawyer and the defendant will be able to communicate directly at least before the start of the proceedings or during the performance thereof. Therefore, there is a risk that the defendant's lawyer will remain just a person on the screen with whom the defendant has no direct connection, thus limiting the person's right to defence and the effectiveness of the legal aid itself.

Another problem with the right to legal aid is related to the possibility that the costs of the lawyer appointed by the state may have to be covered by the defendant him/herself. In order to solve the difficulties of financing state-guaranteed legal aid, amendments to the Code of Criminal Procedure were adopted in June 2020 providing that, if a person is found guilty, the court shall "resolve to recover the costs of state-guaranteed legal aid from the accused person"⁷. Recovery of legal aid costs cannot be applied to minors or persons unable to exercise their right to defence due to "physical or mental shortcomings".

These changes create a situation where participation of a lawyer is necessary pursuant to Art. 51 of the Code of Criminal Procedure, e.g., when a person does not speak Lithuanian or is arrested during the proceedings, however, if that person is later found guilty, he/she must cover the costs of the lawyer which the person did not choose. The Fair Trials organization has emphasized that the risk of having to pay for these services in the future can deter individuals from exercising their right to a lawyer at the crucial, initial stages of the criminal procedure.⁸

Thus, such legal regulation complicates the exercise of the right to defence and may create situations where a person for whom it is objectively important to have a lawyer will deliberately refuse the proposed state-guaranteed legal aid services, e.g., if the person faces a lengthy prison sentence or is afraid of potentially high costs in the future due to a legally complex case.

During the period under review, the right to defence in criminal proceedings was also groundlessly restricted, albeit for a short period of time, for one narrow, specific group of people – asylum seekers and migrants *de facto* detained in Lithuania. On 9 November 2021, following the declaration of a state of emergency by resolution of the Seimas due to a "massive influx of foreigners", the rights of foreigners detained in accommodation facilities to "receive and disseminate information, correspond in writing, make telephone calls and otherwise communicate using mobile and Internet access" were restricted, without providing an exception in cases of communication with a lawyer.⁹

Such legal regulation created an unjustified restriction of the right to a lawyer and defence: compared to other rights, Articles 31 and 145 of the Constitution of the Republic of Lithuania do not provide for the possibility to limit this right, even after a state of emergency is declared. And it was not just a theoretical problem of regulation: pre-trial investigations were launched in Lithuania against certain detained asylum seekers and migrants due to riots.¹⁰ Participation of a defence attorney was necessary in this case due to a language barrier pursuant to Article 51 of the Code of Criminal Procedure. Thus, there was a real risk of restriction of the right to defence. The good thing is that this situation did not last very long – after the state of emergency was extended by the Seimas on 10 December 2021, it was established that previous communication restrictions no longer apply when applying for legal aid.¹¹

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Rights of Victims

Algimantas Čepas

Summary

A legal framework for support to victims of criminal acts was established in Lithuania in 2021. However, the adopted legal acts have certain shortcomings – support systems for victims of domestic violence and victims of human trafficking which have been operating under different legal acts were not suitably integrated into the developed general system of support to victims of crime. In addition, during the period under review, there was a lack of planning in the allocation of state budget resources for the victim support system. Although the legal acts adopted in 2021 established a very positive standard – the obligation of first contact institutions (social services, education, healthcare and other institutions) to help victims of criminal acts receive appropriate support, in practice no attention was paid to the implementation of this standard.

2021 was a significant year for the protection of the rights of victims of crime. On 14 January 2021, the Seimas of the Republic of Lithuania adopted the Law on Support to Victims of Crime of the Republic of Lithuania¹, which entered into force on 1 March 2021. The said law transposes the European Union (EU) Victims' Rights Directive (hereinafter – Directive)² into the legal system of the Republic of Lithuania, and it can be said that there are currently no clearer contradictions between the provisions of the law and the Directive. It should however be noted that the Directive itself stated that it must be transposed into the national legal systems of EU Member States by 16 November 2015, and preparation of the Draft Law on Support to Victims of Crime of the Republic of Lithuania began only after the European Commission presented a justified opinion in 2019 that the Directive is not being implemented fully in Lithuania³. In addition, the by-laws necessary for implementation of the provisions of the law were adopted only in mid-2021 (with some being adopted only at the end of the year or at the beginning of 2022⁴). Nevertheless, development of a legal framework for the protection of victims of crime in Lithuania is a positive thing.

Nevertheless, it should be noted that, although it is a very welcome step forward, the very adoption of the Law on Support to Victims of Crime also created a certain problematic situation. Attention should be drawn to the fact that the rights of victims of crime mentioned in the Directive (only to a certain extent for victims of certain criminal acts) have been enshrined in the Law on Protection against Domestic Violence of the Republic of Lithuania since 2011⁵, as well as in the Recommendations on the Identification of Victims of Trafficking in Human Beings, Pre-Trial Investigation and Inter-institutional Cooperation of 2015⁶. Various organizations provide aid to victims of crime according to these different legal acts^{7,8,9}, with some of them participating in all three support systems, and some in only one of them. Steps to harmonize support systems for victims of crime applied under different legal acts, to ensure adequate funding of the activities of support services and to avoid duplication of functions have not yet been taken at the time of preparation of the review.

One of the issues that will need to be addressed in order to ensure the functioning of the system of support to persons affected by crime is the sufficient competence and resources of support organizations. The Law on Support to Victims of Crime sets relatively small requirements for organizations providing services to victims: employees of organizations working directly with victims must have a higher education in the field of social sciences (regardless of the field of study) or at least one year of work experience in the field of providing support to victims (p. 3 of Art. 13(1)); organizations are not required to provide psychological counselling, it is sufficient to provide emotional support only (p. 4 of Art. 10(3)); although it is specified that organizations must have facilities where a person could receive a private, confidential consultation from a specialist (lawyer, psychologist, social worker, etc.) (p. 1 of Art. 13(1)), support services are not required to provide such aid. In addition, although the law specifies that only organizations that ensure the implementation of all the functions (which are also not strictly defined) assigned to them by law can

be accredited, the Description of Procedure for Accreditation of Support Provided by Support Services to Victims of Crime¹⁰ level such a requirement, providing that victim support organizations may purchase the necessary services or cooperate with other institutions and organizations (relevant contracts or documents confirming cooperation must be submitted for accreditation) (clauses 8.3.8 and 8.3.9 of the said Description). Formulation of non-strict and unclear criteria for the accreditation of support services creates a situation where accreditation depends more on the aim to join the system of providing support to victims than on the possibility to provide services of sufficient quality. This highlights certain practical problems when, for example, there are four accredited support services in Šiauliai and there is not a single such accredited service in cities such as Mažeikiai or Jonava.¹¹

Such a situation complicates the proper use of financial resources allocated by the state. The description of procedure for determining the need to provide State budget funds to an institution providing accredited support to victims of crime, as well as planning, distribution, transfer and usage of these funds, and reporting on the used funds establishes that the State funds for providing accredited support are planned by taking into account the maximum possible amounts allocated from the State budget of the Republic of Lithuania for the implementation of this measure, the number of institutions providing accredited support, and the estimated number of people receiving accredited support in them¹² (clauses 3 and 4 of this description). This way a situation is created where funds allocated to a specific support service depend not only and not so much on the number of clients, but on the number of support services among which state budget allocations need to be divided. In addition, the said description states that each year's funding for each support service depends on the number of victims of crime supported during the previous year (Clause 5). Thus, a large and significant part of activities of support services – dissemination of information about the rights of victims of crime – are carried out behind the scenes. One of the fundamental problems both in Lithuania and elsewhere in the world is the fact that many people do not recognize that they have become victims of crime, and therefore do not seek or receive any help. Support services could contribute to making victims realize that their rights have been violated and encourage them to seek help from appropriate institutions and law enforcement authorities. Unfortunately, such a function of these services is not provided for in the law, and no State funds are allocated for the performance of such a function. Furthermore, tying the funding of the upcoming year to that of the previous year may create a situation where successful information dissemination during one year would increase the number of people asking for help during the other year, but funding would not be provided to meet such support needs.

Formulation of non-strict and unclear criteria for the accreditation of support services creates a situation where accreditation depends more on the aim to join the system of providing support to victims than on the possibility to provide support of sufficient quality.

Another important provision is enshrined in the Law on Support to Victims of Crime, stipulating that support to victims must be provided by first contact institutions, which, in addition to law enforcement and other institutions, include social services, education, and healthcare institutions. Such a standard is very important. The proper response of first contact institutions to which a victim of crime or his or her legal representative comes first would ensure that the vast majority of people who need help would actually receive it. On the other hand, the law itself provides for rather broad functions of first contact institutions (for example, to provide information on procedures related to filing a complaint, statement or report regarding a criminal offense and the legal position of the victim in such procedures, or on the procedure for filing complaints regarding the actions or decisions of subjects of criminal proceedings that may violate the rights of the victim during the said proceedings (Art. 9 of the Law)). If such functions are to be performed by law enforcement authorities (and are already performed according to other legal acts regulating the activities of law enforcement authorities), it is unlikely that the same could be demanded from education or healthcare institutions. In addition, no measures are foreseen to at least familiarize these first contact institutions with the new functions

assigned to them. Therefore, it seems that the positively viewed provision, to include in the system of support to victims of crime the institutions that are the first ones to become aware of the criminal acts suffered by victims and that could significantly contribute to the fact that more people receive the support that they need, remains declarative.

In summary, it can be concluded that, during the period under review, a legal foundation was laid for the system of providing support to victims of crime in the Republic of Lithuania, however the development process of this system has not yet been appropriately harmonized.

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Right to Liberty

06



Pre-Trial Detention

Goda Jurevičiūtė

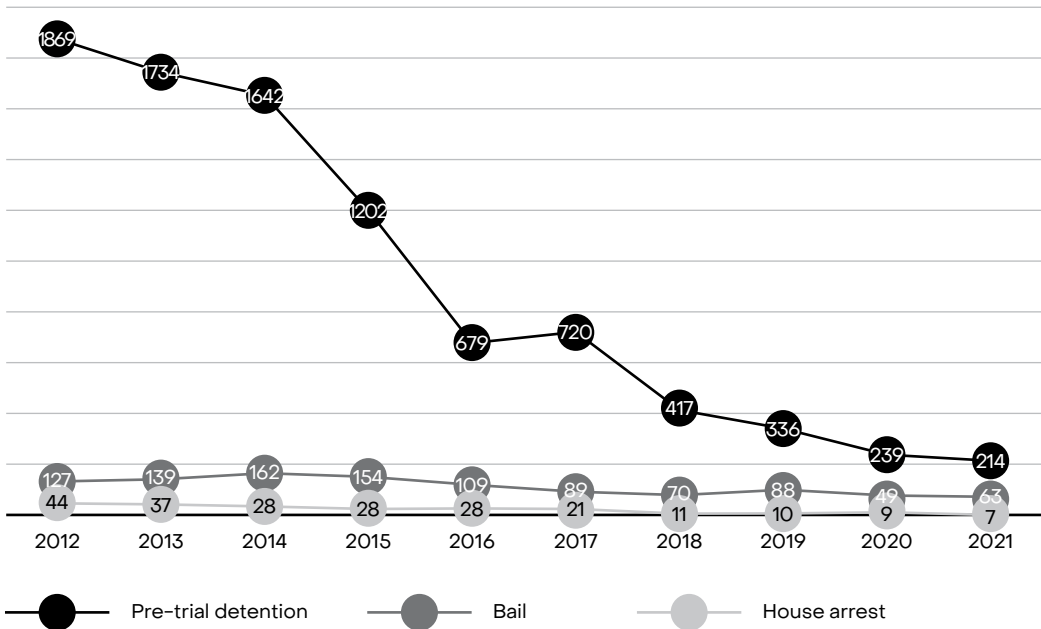
Pre-trial detention is the strictest measure that can be applied to a person suspected of committing a crime if there is a reasonable belief that the person may try to leave the country, obstruct the investigation or commit new crimes. In its essence, pre-trial detention is tantamount to deprivation of liberty while waiting for the court judgment. In addition, the conditions in places where detainees are held (detention facilities) are often harder than in prisons where persons serving a prison sentence are held. That is why this measure is considered to be a very serious restriction of the right to liberty and can only be applied if there is evidence to justify the need for this measure and that more lenient measures such as house arrest, intensive monitoring (use of electronic tagging) or bail would be insufficient.¹

Statistical data collected over the last ten years enables to state that the provisions of the Code of Criminal Procedure are being applied more and more responsibly in terms of pre-trial detention which can only be imposed as a measure of last resort, by each time clearly justifying not only the grounds and motives for its imposition, but also the circumstances due to which milder pre-trial measures could not be applied.²

Statistical data collected over the last ten years enables to state that the provisions of the Code of Criminal Procedure are being applied more and more responsibly in terms of pre-trial detention which can only be imposed as a measure of last resort.

The number of people subject to pre-trial detention continued to consistently decrease during the period under review. Compared to 2019, the number of such persons decreased by almost a third in 2021 (from 336 persons subject to pre-trial detention in 2019 to 214 persons in 2021). And in terms of tendencies observed over the decade (from 2012 to 2021, see *figure below*), the number of pre-trial detention cases has decreased by almost 90 percent.³ Given that, as in previous years, the courts grant over 90 percent of prosecutors' requests for detention or extension of detention,⁴ it can be assumed that the requests of prosecutors for detention are increasingly made only after assessing the need for this measure.

It is likely that amendments to the Code of Criminal Procedure adopted on 10 June 2021 will also contribute to the strengthening of guarantees of a person's freedom during the pre-trial investigation process,⁵ enabling prosecutors and courts to more easily grant an alternative measure – bail. According to the new legal regulation, the person subject to bail can pay it within 3 days, and the amount of the bail is determined by the prosecutor, pre-trial judge or the court applying this measure. According to the previously applied provisions, the court could grant bail only if it had already been paid before the date of announcement of the ruling to apply a remand measure. This created a paradoxical situation where a person applying for bail had to pay the entire amount of the bail (which the court had to consider sufficient) into the deposit account of the court or prosecutor's office before the ruling was even made. And the applying person was unable to find out how much bail was sufficient until the day of the ruling, since there was no legal basis to inform him about it until the ruling was announced. According to the Ministry of Justice which has prepared the draft law, this practical application problem often prevented the court from replacing pre-trial detention with bail.⁶



Summary

In 2020–2021, the number of suspects subject to pre-trial detention continued to decrease: compared to 2019, the number of detention cases decreased by almost a third in 2021, and by almost 90 percent over the past decade (from 2012 to 2021). Since the courts satisfy the vast majority of requests for application or extension of detention, such tendencies indicate that the necessity to use this measure is responsibly assessed before requesting for it. At the same time, the declining use of detention makes it possible to talk about a significant change in strengthening the guarantees of personal liberty in the pre-trial investigation process. It is likely that amendments to the Code of Criminal Procedure adopted in 2021 will also contribute to the strengthening of these guarantees, enabling to more easily grant bail as an alternative measure.

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Involuntary Hospitalization And Involuntary Treatment in Psychiatry

Karilė Levickaitė

A new version of the Law on Mental Health Care was approved on 11 January 2019 (hereinafter – the Law)¹, which expanded the institute of involuntary hospitalization to include property damage as one of the grounds for involuntary hospitalization of a person, and extended the estimated time for applying to court from 48 hours to 3 working days. The Law has established for the first time the national monitoring of cases of involuntary hospitalization, means of physical restraint applied during involuntary treatment, as well as the procedure for the implementation thereof² (hereinafter – Procedure). The following involuntary hospitalization monitoring data was received after an inquiry was made by Public Institution Mental Health Perspectives to the Ministry of Health (hereinafter – Ministry)³:

Information on involuntary hospitalization	Number of cases of involuntary hospitalization	Men	Women
2020	608	284	324
2021 (excluding December)	504	n/d	n/d

The Ministry has noted that, after assessing 2 institutions providing inpatient psychiatric services using the QualityRights assessment tool of the World Health Organization in 2021, it was found that reports sent to the Ministry excluded cases where patients were involuntarily hospitalized for up to 3 working days without applying to court for involuntary hospitalization – data was provided only on cases where a court decision was received. Therefore, the Ministry plans to amend the description of Procedure in the near future, by specifying the data collection methodology. It is thus likely that these numbers will increase in the future, coming closer to the actual extent of cases of involuntary hospitalization.

The regulation of the use of coercive measures in the provision of personal health care services and the tendency to establish coercive measures lack a deep expert discourse and continuous assessment of compliance with human rights standards and international obligations.

It should be noted that expanding the conditions of involuntary hospitalization and regulating the use of physical restraint on a national scale is contrary to the United Nations (UN) Convention on the Rights of Persons with Disabilities⁴ and recommendations of the UN Committee on the Rights of Persons with Disabilities for Lithuania⁵, but essentially complies with the recommendations of the European Committee for Lithuania regarding the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment⁶, indicating to establish safeguards and monitoring of the use of coercive measures.

However, even when judging by the standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the Law and the Procedure do not provide for comprehensive enough regulation of safeguards and monitoring. For example, involuntary hospitalization and involuntary treatment are difficult to distinguish in regulated procedures, and monitoring includes only the use of manual physical restraint (use of human body force, special means of physical restraint, or isolation of a patient with mental health and behavioural disorders in a separate room). There is no monitoring of chemical restraint, which is defined as the coercive administration of medication to control the patient's behaviour.⁷

The VXIII Government Programme announced in December 2020⁸ promised, for the first time in history, to pay special attention to identifying human rights violations in the field of mental health care.

A high-level event "Human rights in the field of mental health – what needs to change?"⁹ took place on 19 October 2021, in which decision-makers, representatives of the World Health Organization¹⁰ and non-governmental organizations¹¹, and foreign and Lithuanian experts discussed the development of human rights-based community, person-oriented and psychosocial services in the country. This is particularly important in order to reduce the extent of involuntary hospitalization and involuntary treatment cases in the country.

Public discourse on inpatient psychiatric treatment is fraught with stigma and stereotypes, viewing individuals with mental health disorders as having unpredictable and dangerous behaviour. After a patient walked out of the Republican Vilnius Psychiatric Hospital in the winter of 2021, the police immediately publicly announced the person's description and photo, stating that a dangerous patient has escaped from a psychiatric hospital, essentially revealing personal data and violating the person's privacy. The police statement urged people to be "cautious" and "not to approach" the "armed", "dangerous" and "unpredictable" "escapee" who was "sought after by large police forces"¹². In the public sphere, involuntary hospitalization and involuntary treatment are discussed in negative contexts, often mixing them with coercive medical measures.¹³ Such discourse increases the stigma of mental health and demonstrates a poor understanding of the field of mental health.

Art. 98 of the Criminal Code¹⁴ provides that coercive medical measures may be imposed by the court on "legally incapacitated or of diminished capacity as well as the persons who, after committing a criminal act or having been imposed a penalty, start to suffer from a mental disorder rendering them incapable of understanding the nature of their actions or controlling them".

It is worth noting that this area is insufficiently discussed at the international level, although the UN Convention on the Rights of Persons with Disabilities states that there should be no deprivation of liberty on the basis of disability, and that the penitentiary system should deal with any punitive measures instead of the psychiatry system. A letter submitted by the Ministry indicates that 329 persons were hospitalized on this basis in 2021 by December. Thus, these measures are applied in Lithuania rather often. And it is scandalous that they are also applied to children. Specialists raise reasonable questions regarding the unavailability of integrated psychosocial services necessary for people as an alternative to medical treatment in a hospital.¹⁵

The regulation of the use of coercive measures in the provision of mental health care services and the tendency to establish coercive measures lack a deep expert discourse and continuous assessment of compliance with human rights standards and international obligations

A value collision globally is currently ongoing regarding the use of coercive measures in treatment. In the context of the standards and values declared by the United Nations and the Council of Europe regarding coercive measures in psychiatry, the collision is deepened in the Council of Europe in order to regulate the additional protocol of the Convention on Human Rights and Biomedicine (Oviedo Convention) on the protection of human rights and dignity¹⁶. This protocol is incompatible with the UN Convention on the Rights of Persons with Disabilities, which establishes new human rights standards regarding the equality of persons with disabilities before the law, the protection of their freedom and safety, etc. Adoption of an additional protocol to the Oviedo Convention would create conflicting standards for Member States at international, regional and national levels, and would complicate progressive reforms in the field of mental health focused on ensuring human rights standards. Lithuanian organizations and experts working in the field of human rights have repeatedly appealed to national decision-makers, asking them not to approve the adoption of the additional protocol to the Oviedo Convention.¹⁷ International non-governmental organizations¹⁸ are also in the same position,

encouraging countries not to choose the easiest path, but to rather develop new high-quality mental health services and eliminate the use of coercive measures.

To find important supporting positions and ways to resolve international disagreements, the Committee on Bioethics of the Council of Europe has applied for an advisory opinion to the European Court of Human Rights (hereinafter – ECtHR) regarding the currently prepared additional protocol to the Oviedo Convention. However, in order to maintain its independence, the ECtHR rejected¹⁹ this advisory opinion request of the Bioethics Committee. Thus, it will be up to the Member States themselves to do their homework and make appropriate decisions. This also includes Lithuania.

Summary

According to the involuntary hospitalization monitoring data, 608 cases of such hospitalization were recorded in Lithuania in 2020, and 504 such cases were recorded over 11 months of 2021. However, it was found that, when submitting reports to the Ministry of Health (hereinafter – Ministry), these reports did not include cases where patients were involuntarily hospitalized for up to 3 working days without applying to court for involuntary hospitalization. This suggests that these numbers will increase and come closer to the actual extent of involuntary hospitalization cases after the monitoring procedure will be revised by the Ministry in the future. The VXIII Government Programme promised, for the first time in history, to pay special attention to identifying human rights violations in the field of mental health care. It is expected that the implementation of the programme will lead to the development of human rights-based community, person-oriented and psychosocial services in the country in order to reduce the extent of involuntary hospitalization and involuntary treatment cases. Coercive medical measures under Art. 98 of the Criminal Code were imposed on 329 people by December of 2021. It is scandalous that there are cases where the courts also imposed these measures on children. Following the initiative of the Council of Europe to regulate the additional protocol of the Convention on Human Rights and Biomedicine (Oviedo Convention), which does not comply with the provisions of the UN Convention on the Rights of Persons with Disabilities and establishes the use of coercive measures in psychiatry, Lithuanian organizations and experts working in the field of human rights have repeatedly appealed to national decision-makers, asking them not to approve the adoption of the additional protocol.

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Right to Live in a Community

07



Institutional Social Care Reform

Ugnė Grigaitė

Article 19 of the United Nations (UN) Convention on the Rights of Persons with Disabilities enshrines the right of persons with disabilities to live a full life in the community on an equal basis with others.¹ This includes the right to receive the necessary individual support, to choose a place of residence, and to be able to decide with whom to live. In addition, countries which have ratified this convention undertook to ensure that no persons with disabilities would live in a specific living environment designated for them by the state. However, a number of people with disabilities in Lithuania still do not have an alternative due to not only a lack of physical and informational accessibility of public services in the community, but also the deep-rooted stigma of disability. There is a lack of a range of new types of community services, thus people are often placed in segregated social care homes or other social care institutions.

Despite the fact that the institutional social care reform has been underway since 2014, according to the data of the Ministry of Social Security and Labour (MSSL), about 6,000 adults with disabilities (most of them with intellectual and/or psychosocial disabilities) still lived in large segregated institutions – social care homes in 2020–2021. In 2020, 8 social care homes from 6 regions of Lithuania (Vilnius, Šiauliai, Kaunas, Tauragė, Telšiai and Marijampolė) were added to the list of institutions to be reformed.² Initial implementation phase of the investment projects of these 6 regions took place in 2021.³ 71 group or independent living homes, 40 social workshops or day care centres, 8 sheltered housing, and 6 specialized nursing and social care homes will be established in these regions by 2023.⁴

The number of people who received these new types of social services by the end of 2021 is presented in the table below. It is clear that the number of people living in social care homes is still disproportionately higher than the number of recipients of new forms of social services.

Places for adults with disabilities in institutionalized care	5916
Number of persons with disabilities provided with new forms of social services (by the end of 2021):	
Sheltered housing	194
Personal assistant	52
Temporary respite	233
Case management	25
Group living homes (35 institutions)	295
Social workshops	533
Assisted employment	312 (of which 73 were employed)
Supported decision making	392

Data of the MSSL and DAD

People Waiting for Accommodation in Social Care Homes

Despite the development and expansion of the infrastructure of community services, there are still queues of people waiting for accommodation in social care homes: there were 196 people waiting at the end of 2020, of which 87 were of working-age. At the end of 2021, there were 65 vacant places and a queue of 97 people waiting for a place.⁵

New persons of working age with intellectual and/or psychosocial disabilities or mental health disorders will no longer be accepted for institutional long-term social care in any social care institutions (care units of institutionalized type) whose owner rights and obligations are implemented by the MSSL only as of 2030.⁶

Group Living Homes and Related Issues

Group living homes (up to 10 residents) are established as one of the main alternatives to accommodation in social care homes. According to the data of MSSL, at the end of 2021, there were 35 group living homes established by state social care institutions for persons with intellectual and/or psychosocial disabilities or mental health disorders.⁷

It should be noted that, both nationally and internationally, various human rights, mental health and disability NGOs, as well as the Commission for the Monitoring of the Rights of Persons with Disabilities under the Office of the Equal Opportunities Ombudsperson (OEEO), and Vice Chair of the UN Committee on the Rights of Persons with Disabilities Prof. Jonas Ruškus believe that group living homes, as they are formed in Lithuania during the implementation of the institutional social care reform, do not comply with the provisions of the UN Convention on the Rights of Persons with Disabilities.⁸

In the international context, it is noted that, when establishing group living homes, larger institutions are replaced by smaller ones, without ensuring that people with disabilities have the opportunity to choose where and with whom to live, and other characteristics of institutional care and institutional culture are also often carried over into the provision of services and support to persons with disabilities in group living homes, in which case transinstitutionalization is carried out *de facto* instead of deinstitutionalization.⁹

The guidance issued by the World Health Organizations in June 2021, on community mental health services meeting the human rights standards once again encourages to no longer use any kind of institutional accommodation for persons with disabilities.¹⁰

The UN Committee on the Rights of Persons with Disabilities noted in its recommendations to Lithuania back in 2016¹¹ that Lithuania does not have a programme for the provision of individualized personal and financial assistance that would create possibility for people with disabilities to live independently in the community, and there is lack of community services. It is recommended to ensure the availability of various community-related services for people with disabilities, to promote their social inclusion, including persons with intellectual and/or psychosocial disabilities or mental health disorders, as well as to implement their right to live in the community, providing for the possibility to choose where and with whom they want to live, and to provide individually tailored services and personal assistance in their homes.^{12,13}

Public Resistance

In 2020 and 2021, there was evident public opposition of local communities of the regions of Lithuania to the establishment of group living homes within their neighbourhoods. At the end of 2020, residents of one neighbourhood in Marijampolė objected to plans to build three group living homes for people with intellectual and/or psychosocial disabilities. Residents of Šakiai district were also against the construction of such group living houses in 2020.¹⁴

The two-year long protests continued in the community of Žiežmariai in February 2021, this time regarding the second group living home project. According to the data of MSSL, in order to strengthen direct dialogue with the local community and smoothly implement the institutional social care reform, the Mayor of the Kaišiadorys District Municipality established a working group on 21 July 2020, which also included the Chair of the Žiežmariai community. As commented by the Ministry, "the working group analyses the transition from institutional care to community services for people with disabilities in Kaišiadorys municipality, submits proposals to the mayor and institutions participating in the reform, and informs the public about the progress of the reform. Kaišiadorys District Municipality has offered 10 land plots among which the working group could choose the best option for establishing a second group living home. MSSL encourages municipalities to maintain a dialogue with the public, to constantly inform the local community about the planned construction of group living homes, and to share good practices on group living homes that are already built and used in other municipalities"¹⁵.

Gross Violations of Human Rights in Social Care Homes

At the beginning of September 2020, while carrying out its national torture prevention and human rights monitoring activities, the Human Rights Division of the Seimas Ombudsmen's Office found a resident locked behind bars in the Skemai social care home. It was discovered that he spent two weeks locked away like this. The said resident was locked by employees of the institution inside a small room with bars. Instead of a toilet, he had a chair with a hole under which a bucket was placed, and there was no other furniture in the room. The Seimas Ombudsmen's Office recorded even more human rights violations in the Skemai social care home.¹⁶

Due to the situation in the Skemai social care institution, pre-trial investigations were launched by the police for unlawful imprisonment and possible falsification of documents or possession of a forged document. Allegations were made against the director of this care home, the deputy director, and the nurse. However, prosecutor Arvydas Gramba closed the investigation in August 2021, stating that "keeping a person behind bars was against good morals, however such actions could be assessed as a disciplinary offense, not a crime." The Seimas Ombudsperson's Office appealed against this decision.¹⁷

During the same month, human rights violations were also recorded by representatives of the Seimas Ombudsmen's Office in the Aknystos social care home established in Anykščiai District. It was found that "people were left locked in the intensive monitoring room and not allowed to use the toilet, therefore, before locking a person in this room, employees of the said institution placed a bowl (metal container) for a person to urinate in. Residents held in the intensive monitoring room were not allowed to eat in common areas and were forced to eat, urinate and defecate in the same room. Two residents were kept locked in their rooms in the first block of the Aknystos branch. They were not provided with the opportunity to regularly go outside, and, according to the staff, as an alternative, a window was opened for these residents".^{18,19}

According to Dovilė Juodkaitė, President of the Lithuanian Disability Forum, these recorded human rights violations are tantamount to torture: "Such cases cannot be tolerated. They are extreme cases of human rights violations, and making them public exposes an even larger problem – confinement and denial of assistance to people with disabilities are critical violations of human rights".²⁰ In response to these situations, there was a wide public debate regarding the fact that such a situation would not have been possible if MSSL had carried out the institutional social care reform more quickly and efficiently.^{21,22}

Challenges of the COVID-19 Pandemic

Following the declaration of quarantine by the Government of the Republic of Lithuania on 14 March 2020²³ due to the COVID-19 pandemic, activities in day care centres for children, persons with disabilities and the elderly were prohibited, excluding only the provision of primary outpatient mental health care services. The non-governmental organization Mental Health Perspectives conducted a study together with the Human Rights Monitoring Institute "The right to mental health and ensuring the rights of persons with psychosocial disabilities during the COVID-19 pandemic in Lithuania"^{24,25}, revealing that, when the first quarantine began, adopted legal acts were in force only for a short time (the shortest period was 24 days) or were frequently changed.²⁶ After their revision, some legal acts entered into force on the same day they were adopted, thus the managers of various social care and other institutions providing social services had to adapt extremely quickly to these changes, often urgently reorganizing their resources and internal work procedures.²⁷

A second quarantine was announced on 4 November 2020²⁸, however this time the provision of services in day care centres was not interrupted. Nevertheless, in the field of social services, it was prohibited to visit residents in all institutionalized settings providing social services, as well as in family, group and independent living homes.²⁹ In the course of the pandemic, social care homes have also become sources of COVID-19 infection.³⁰

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Deprivation and Restriction of Liberty

08



Prisons

Gintautas Sakalauskas

The number of prisoners in Lithuania has decreased during the period under review, however ensuring human rights in prisons continues to be a serious issue. Long prison sentences, poor conditions of imprisonment, violence, lack of employment, large amounts of illegal items, including drugs, health problems due to addictions and poor living conditions, infrequent accommodation of prisoners in open-type institutions and rare short-term outings, as well as poor psychosocial atmosphere distinguishes the prison system in Lithuania from modern international imprisonment standards. Prisoners' councils, the socialization reform concept, and initiatives to create an effective strategy for the reform of the prison system are good examples, however they do not yet have a fundamental impact on the necessary changes in this system.

On 31 July 2021, there were 5,513 imprisoned persons in Lithuania, i.e. 184 persons per 100,000 people living in the country.¹ This was the lowest absolute and relative number of prisoners in the country after the restoration of independence of Lithuania. According to the data of 2021, Lithuania was no longer placed last in the European Union (EU) in terms of the number of prisoners, with Poland (189) and Slovakia (188) having more prisoners per 100,000 population. However, the relative number of imprisoned people in Lithuania was still approximately 2 times higher than the EU average.

Despite the reduction in the number of prisoners, the average length of served prison sentences continued to increase. In 2020, it was 87 months, which is 5 months longer than in 2019 and 29 months longer compared to 2006, when the average length started to consistently increase.²

Although the absolute number of prisoners in Lithuania has decreased by almost 2 times over the last 10 years (9,920 persons were in prison at the end of 2011)³, systemic problems were still not resolved in the prison system.

Seimas Ombudsmen have stated in their Annual Report 2020 that "one of the most relevant problems in correctional institutions is the lack of employment for convicted persons, and the social rehabilitation of people serving life imprisonment after their transfer to various prisons in the country; as well as matters related to solitary confinement, prisoners' living and hygiene conditions, natural lighting in cell-type rooms, and the possibility for prisoners to study (to acquire not only primary, basic, secondary or vocational education, but to also pursue higher education), use limited internet access, and see their relatives"⁴. Poor imprisonment conditions continue to be one of the biggest structural problems in the Lithuanian prison system.⁵ The US State Department once again noted in its report on the implementation of human rights in Lithuania published on 30 March 2021 that poor and life-threatening prison conditions are one of the key problems in Lithuania in the field of human rights protection.⁶

7 prisoners committed suicide in Lithuanian prisons in 2020 (8 in 2019).⁷ The suicide rate of prisoners is more than 4 times higher than that of persons living in freedom (2.2 (607) suicides per 10,000 population in 2020 (July 1), which is 10.4 suicides for the same population number according to the prisoner flow of 2020 (6,751)). 595 criminal acts were registered in Lithuanian prisons in 2020, which is 45% more than in 2019, even though the indicators of 2018-2019 were already the highest over the last 20 years. 556 criminal acts were registered in 2021⁸, i.e. 6.6% less, however, given the decrease in the flow of prisoners during the year, the rate of registered criminal offenses continued to increase. The majority of registered crimes were related to drugs. The increasing number of crimes recorded in prisons may be a sign of more intense formal social control, however there is no doubt that the true extent of criminal behaviour in prisons is many times higher.

Based solely on the statistics recorded by the Prison Department⁹, 1,001 stabbing/cutting objects (mostly in the living area) (761 in 2019), 185 litres of alcoholic beverages (188 in 2019), 3,900 litres of fermented alcohol (7,721 in 2019), 3,908 mobile phones (4,341 in 2019), 3,243 SIM cards (3,213 in 2019), 125 wireless internet modems (163 in 2019), and 0.9 kilograms of drugs (1.3 kg in 2019) were confiscated from prisoners across all the prisons in the country in 2020. This is only the number of items that were found, which suggests that the amount of items that are not allowed to be in the possession of prisoners is much higher.

At the end of 2020, 19.4% of prisoners had mental and behavioural disorders due to the use of narcotic and psychotropic substances, and 9% had behavioural disorders due to the use of alcohol. 24 tuberculosis cases were registered in prisons (after examining 3,129 people) and 16 persons were infected with HIV during 2020.¹⁰

Drug addiction treatment is particularly important.¹¹ There is no data on the number of people receiving continuous substitution treatment after being incarcerated. A procedure was approved in mid-2021 by order of the Director of the the Prison Department, providing for the use of opioid substitution treatment for prisoners not only in accordance with their treatment programs which they followed before their imprisonment, as was the case until now, but also by providing treatment for prisoners who request for it after their incarceration.¹² The license for such treatment has not yet been approved in the penitentiary system during the discussed period.

Prisons do not always provide adequate health care for prisoners. For example, the Seimas Ombudsperson examined the complaint of an inmate incarcerated in the Marijampolė Correctional Facility, stating that he was not provided with a medicinal product with a specific active ingredient prescribed by the applicant's doctor, and was not given the opportunity to purchase it himself. The Seimas Ombudsperson recognized the complaint as justified and concluded that both international and national legal acts establish that persons held in places of deprivation of liberty must be provided with health care services of the same quality as persons whose liberty is not restricted, i.e. conditions must be created enabling a prisoner to meet up with a relevant doctor and receive detailed consultations on his health, including appropriate and prescribed treatment in a timely manner, according to the doctor's recommendations. In cases where such necessary services cannot be provided by treatment facilities in prisons, services may be provided in state or municipal public health care institutions.¹³ The health care needs of prisoners are extensive and unique due to long-term isolation, various deprivations, depression, pointlessly spent time, stress, physical and psychological abuse, use of various psychotropic substances, and similar health problems that occur more often in prison than outside of it, however there is a critical shortage of doctors in the prison system¹⁴.

The first modular residential complex for prisoners was opened at the Marijampolė Correctional Facility in the summer of 2020, with 64 living spaces with a shower and kitchenette, providing a living area of no less than 5 m² for one person.¹⁵ Even though it is necessary to improve imprisonment conditions, container-type facilities, albeit a quick solution, cannot be considered as suitable living facilities in the long term. At the end of 2021, new cell-type rooms were built in the Pravieniškės Correctional Facility, accommodating a total of 22 inmates. It is clear that there are not enough properly equipped facilities, and the slow pace of their renovation will not allow substantially improving imprisonment conditions for the majority of prisoners in the near future.

At the end of 2021, a halfway house with approximately 20 living spaces has been opened opened in Panevėžys.¹⁶ The number of places in all 5 halfway houses operating in the country is small, however only 83 out of approximately 130 available places were occupied by the end of 2020. Not all halfway house places were filled, indicating an inconsistent process of execution of a sentence of deprivation of liberty that does not comply with the principle of progressive serving of sentence.

After the adoption of an appropriate regulatory procedure by the Director of the Prison Department at the beginning of 2021, prisoners' councils were established in prisons, helping the administration of correctional institutions to organize social rehabilitation and address the domestic issues of inmates.¹⁷ 13 such councils were established by mid-2021.¹⁸ According to the official reports of the Prison Department under the Ministry of Justice of the Republic of Lithuania, at least for now, these councils handle only minor domestic issues that should be handled in any case, with or without

councils, however it is expected that these councils will gradually be able to tackle systemic problems as well.¹⁹

Imprisonment conditions providing for the right to possess various items in different regime groups were tightened in mid-2020.²⁰ New amendments to the internal rules of procedure of correctional facilities and prisons were also adopted during the same period, easing restrictions on the domestic environment of prisoners assigned to ordinary and disciplinary groups, as well as inmates serving their sanctions.²¹

In mid-2021, debates were fuelled by the frequent application of arrest, when a person is suspected of committing a criminal act, but is not caught at the scene of the crime, as well as the absence of clear legal criteria for its application. Draft amendments to the Code of Criminal Procedure of the Republic of Lithuania (CCP) were prepared to tackle this problem, which were considered in the Seimas at the end of 2021.²²

Due to the declared quarantine, restrictions on all direct contact with the outside world were applied in prisons, without immediately guaranteeing the right of prisoners to communicate with their relatives remotely.²³ During the first half of 2020, no Covid-19 infection cases were registered in Lithuanian prisons, and there was only one such case during Q3 of the year. 528 Covid-19 infection cases were recorded in prisons between 1 September and 31 December of 2020. According to the data of 31 December 2020, 116 (2%) prisoners were sick with Covid-19.²⁴ Vaccination in prisons was initially slow during the period under review, with only half of officers and only a third of inmates vaccinated by mid-2021.²⁵ At the beginning of 2022, 63.7% of prisoners and as many as 84.4% of employees were vaccinated.²⁶

The VXIII Government Programme approved by resolution of the Seimas of the Republic of Lithuania on 11 December 2020 provides for the preparation of a clear vision of penal institutions and a plan to achieve it, and for the identification of what the structure and decisions of our penal institutions should look like in the long term.²⁷ Neither the vision nor the plan had been prepared at the beginning of 2022.

After Lithuania presented its 4th periodic report to the UN Committee for the Prevention of Torture on 17–18 November 2021, the latter once again pointed out structural and systemic problems in ensuring that imprisonment conditions in Lithuania meet the human rights standards.²⁸

On 10–20 December 2021, a delegation of the Committee for the Prevention of Torture (CPT) of the Council of Europe visited Lithuania for the eighth time. During this visit, particular attention was paid to the implementation of problem-solving measures indicated in the report published on 25 June 2019, which was prepared after the visit held on 20–27 April 2018. Long-standing systemic problems were pointed out²⁹, and, although the CPT report has not been published at the time this overview was written, it is likely that Lithuania will once again receive a lot of criticism for lack of fundamental changes in the prison system.

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Resocialization of Convicted Persons

Gintautas Sakalauskas

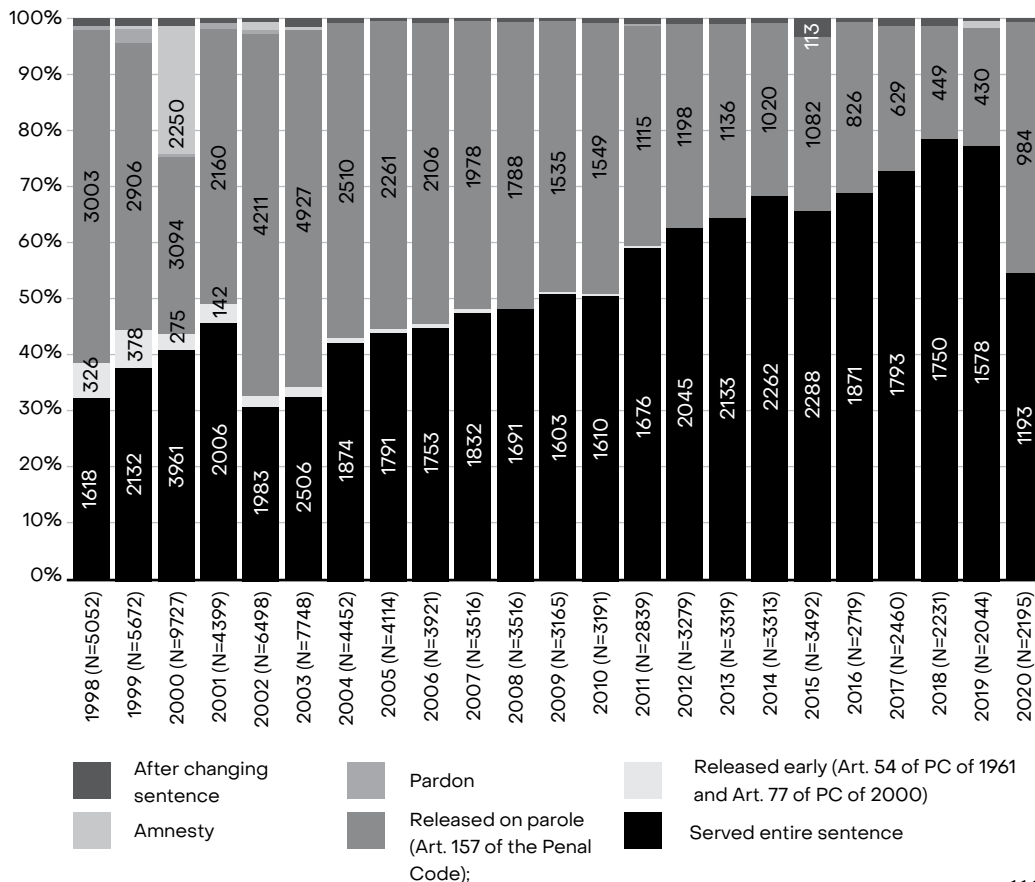
Summary

Compared to previous years, public institutions paid more attention to the resocialization of convicted persons during the analysed period with the approval of a description of social integration of persons released from imprisonment, approval of a resocialization concept, employment of social workers in the prison system, more active cooperation with non-governmental organizations and volunteers, and registration of counts of recidivism after a person is released from prison.

More than 16 thousand people were convicted in Lithuania in 2020, of which 33% were actually imprisoned or arrested, 30% were imposed a fine, 25% were subject to deprivation of liberty, 6% were imposed community service, and 5% were under probation.¹ Thus, the largest part of punishments imposed on convicted persons were related to imprisonment, which create the most unfavourable conditions for resocialization due to prisoner isolation.

In 2020, following the adoption of relevant amendments to the Penal Code of the Republic of Lithuania, more imprisoned persons were released on parole than in previous years after the application of automatic parole with intensive supervision. Before that, the number of parolees, which had been steadily declining for almost two decades², increased to 45% among all persons released from prisons that year, however it is difficult to assess if this tendency will be sustainable and long-term.

Grounds for the Release of Sentenced Persons from Prisons³



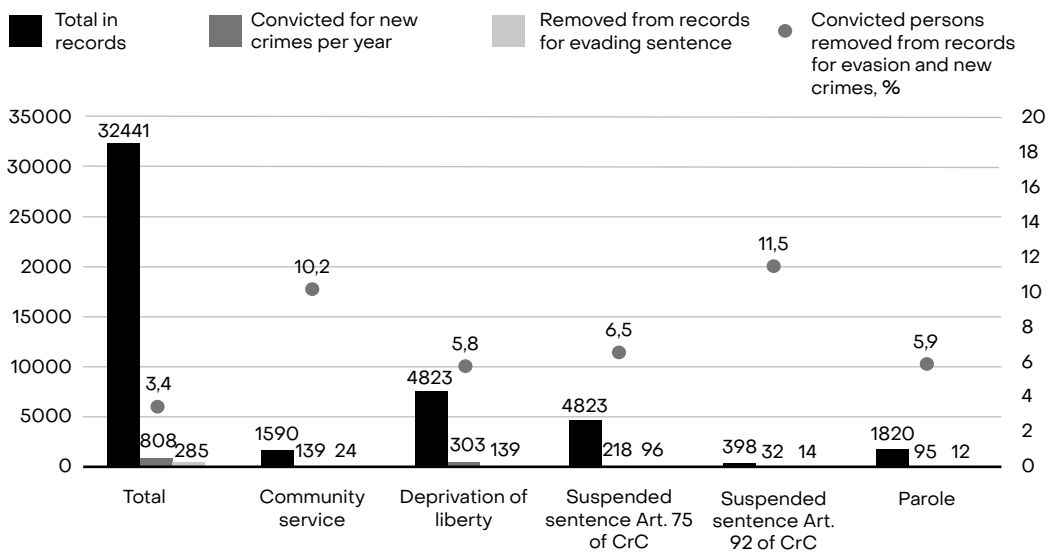
A joint order of the Ministers of Social Security and Labour and the Minister of Justice entered into force on 1 January 2021, approving the description of procedure for social integration of persons released from correctional facilities, which, for the very first time, regulated a consistent process of social integration of persons released from prisons, by uniting the efforts of various institutions, agencies, municipalities and non-governmental organizations and focusing on individualized social work with convicted persons.⁴ Social integration after leaving prison is usually a complex process that requires a lot of personal and systemic efforts.⁵ In mid-2021, 15 social workers with 4 assistants worked in prisons.⁶ Although this number is still very small compared to the several thousand people released from prisons every year, the employment of social workers can be evaluated positively and is already bringing noticeable benefits.⁷

The concept of the reform for the resocialization of people sentenced to imprisonment in Lithuania⁸ was approved by order of the Director of the Prison Department of 7 January 2021. Its implementation measures plan 2021–2030¹⁰ was approved later on, and a resocialization process coordination council was established by the end of the year. The said description of the social integration of people released from correctional facilities and the resocialization reform concept could become an important basis for changes in the effectiveness of resocialization of prisoners in Lithuania.

There was a persistent lack of data on the number of former prisoners returning back to prisons. The Prison Department began to finally collect such data in 2020 – 1,630 people were sent to prison to serve their prison sentences in 2020, of which 326 committed new crimes within two years after being released, and 75 convicted persons had their parole revoked for evasion to serve their sentence. Thus, persons who went back to prison within two years after being released accounted for 24.6% of all the people who were sent to serve their prison sentence.¹¹ This points to the need for better social integration outcomes for ex-prisoners.

Of the persons under the supervision of the Lithuanian Probation Service in 2020, only 3.4% avoided serving the assigned sentence, punitive or disciplinary measure, or committed a new crime and have been excluded as a result. This shows that the enforcement of non-imprisonment sentences is effective, with only rare cases of violations reported in the media.¹²

The number of people included in the records of the Probation Service in 2020, and the absolute number and percentage of those removed from records for evading their sentence or committing new crimes during the year¹³.



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Children's Socialisation Centres

Karilė Levickaitė

There are currently three children's socialisation centres (hereinafter – CSCs) operating in Lithuania: Gruzdžiai CSC, Veliučionys CSC, and Kaunas CSC 'Saulutė'. At the end of 2021, there were 15 children¹ assigned medium supervision measures living in these centres.

A new version of the Law on Minimum and Medium Child Supervision was adopted on 2020 September 24², the Art. 7 of which states that, after a child is assigned a measure of minimum or medium supervision, or after expiration of the term of implementation thereof, both the child and the child's legal representatives must be provided with coordinated services. This provision obliges to develop and provide services not only for the child, but also for his/her parents and guardians in municipalities, by looking for ways and solutions together with the inter-institutional cooperation coordinator and the child welfare commission.

In recent years, the general aim was to maximize the use of minimum supervision measures enabling to provide support to a child without removing him/her from his/her legal representatives or by doing so to the minimum possible extent, and only to assign the measure of medium supervision as a last resort, in which case the child is provided with support in a children's socialisation centre.

Thus, children experiencing socialisation challenges are sent to CSCs only in exceptional cases. When assigning the medium supervision measure, municipalities are obliged³ to submit the specific case for assessment before a commission of the National Agency for Education. Conclusions of the National Agency for Education often express disapproval of sending a child to CSC, however, specialists point out that provided suggestions are often out of step with reality and are not feasible.⁴ However, the National Agency for Education bases its conclusions and suggestions on the recommendations for assigning measures of minimum or medium child supervision⁵, which suggest organizing the help of specialists, as well as assessing the competences of parents or guardians, including foster homes – state institutions. It seems that there are gaps in municipalities where there is lack of services, competences, and coordinated child-centred efforts.

According to child rights protection specialists, there is a critical lack of high quality, accessible services for children in the country.⁶ These issues are discussed in the Interdepartmental Child Welfare Council under the Government of the Republic of Lithuania.⁷ Studies show that psychological help reaches only 20 percent of teenagers who need it.⁸ There is a lack of professionals prepared to work with children with behavioural and emotional difficulties, especially those with high support needs. In terms of such children, their parents or guardians, support is provided in special education centres which are suggested by psychological-pedagogical services, psychiatrists, and also representatives of the municipality after diagnosing or assessing the needs of the child. Today there are seven such centres in Lithuania.⁹ It is recognized that special education centres intended to help children with emotional and behavioural disorders do not comply with the provisions of Article 15 of the United Nations Convention on Persons with Disabilities regarding inclusive education. They are segregated, and the methodological centres operating in them are weak. For example, during the discussed period, the content of the "Diemedžio" educational centre still did not meet good practices, and using the same content could potentially harm children rather than help them¹⁰. After emergence of the scandal of sexual abuse of children in the Švėkšna special education centre, it was taken over from Šilutė Municipality by the Ministry of Education and Science on 17 June 2015. The said centre was renamed to "Diemedžio" educational centre and the number of children in the centre was reduced¹¹ to avoid fundamental qualitative and systemic changes.

The closure of socialisation centres was also accompanied by scandalous facts. The legal proceedings initiated by the former pupils of CSC 'Širvėna' in Biržai District ended in 2020, after the Supreme Court of Lithuania issued its final and non-appealable ruling, according to which not only the violent teenager, but also the Ministry of Education, Science and Sports had to take responsibility for the crime.¹² One can

only guess how many painful stories have not become public and have not received appropriate justice. Unfortunately, the main investments are currently focused on improving CSC infrastructure.¹³ Final modernization works of three new CSCs are underway,^{14,15} to which the children living in the currently operating CSCs will be transferred. The planned project funding for the mechanism of strengthening social integration for children and youth with high-risk behaviour and/or from disadvantaged backgrounds is to be welcomed.¹⁶ However, construction of new CSCs, instead of focusing on systematic "soft" measures which would enable the provision of the much-needed high-quality continuous support to children, continues the prevailing tradition of "cobblestone laying" the European Union funds in Lithuania.

Such stagnation of the situation signals serious management problems in political leadership and state institutions, and does not create optimistic assumptions to expect actual high-quality services and systems that meet the individual needs of children experiencing socialization challenges in the near future. Overall, it seems that, when organizing a service system in Lithuania, there is no connection between important academic research and good work practices in this field.

Studies conducted by Lithuanian scientists reveal that teenagers who are assigned minimum supervision measures usually have some kind of traumatic experiences, and the traumatic experiences of those entering the education and law enforcement systems in Lithuania are not assessed sufficiently and appropriately.¹⁷ In Lithuania, little attention is paid to the consistent and individual improvement of the qualifications of specialists, imagining that one-time trainings or spontaneously organized supervisions are sufficient.¹⁸

Construction of new children's socialisation centres, instead of focusing on systemic "soft" measures which would enable the provision of the much-needed high-quality continuous support to children, continues the prevailing tradition of "cobblestone laying" the European Union funds in Lithuania.

It seems that the ineffective service system seeks to determine where a child could be sent because of his or her difficulties. More than half of children in CSCs come from foster care institutions. Most of these children also have learning, behavioural and emotional difficulties. The standard initiators of requests for medium care measures are orphanages, and the basis for such requests is addictions due to the use of psychoactive substances and the consequences of such inappropriate behaviour.¹⁹ It is clear that children with socialisation challenges and behavioural and emotional difficulties need intensive, integrated psychosocial support instead of educational measures provided by CSCs. Probation officers visiting the Vėliučionys CSC reported that "comprehensive, educational measures are applied with engagement-promoting activities that can help a child to change, to get rid of the "difficult teenager" label, and to integrate into the adult world without a criminal shadow".²⁰ It seems that various institutions do not perceive delinquent child behaviour as a result of traumatic experiences, inner pain, or loss of connection with or trust in people important to the child, which requires long, consistent therapeutic work.

Ombudsperson for Child's Rights, Edita Žiobienė, spoke about CSCs during a discussion organized by the Commission for Suicide and Violence Prevention of the Seimas in the spring of 2021: "If I could, I would close them down, because they do not serve their purpose. Such a centre is more of an educational institution, however it does not have the professionals necessary to meet the needs of teenagers who went through traumatic experiences."²¹

Summary

At the end of 2021, 15 children lived in three children's socialisation centres (hereinafter – CSCs) operating in Lithuania. Children experiencing socialisation challenges are sent to CSCs only in exceptional cases, aiming to exhaust minimum supervision measures before that, however such support is ineffective due to lack of specialized integrated psychosocial services. It is recognized

that the methodological centres for helping children with emotional and behavioural disorders are weak and require fundamental qualitative and systemic changes. Main investments are focused on improving CSC infrastructure instead of developing soft systemic measures. Children with socialisation challenges and behavioural and emotional difficulties need intensive, integrated psychosocial support instead of educational measures provided by CSCs.

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Prohibition of Violence

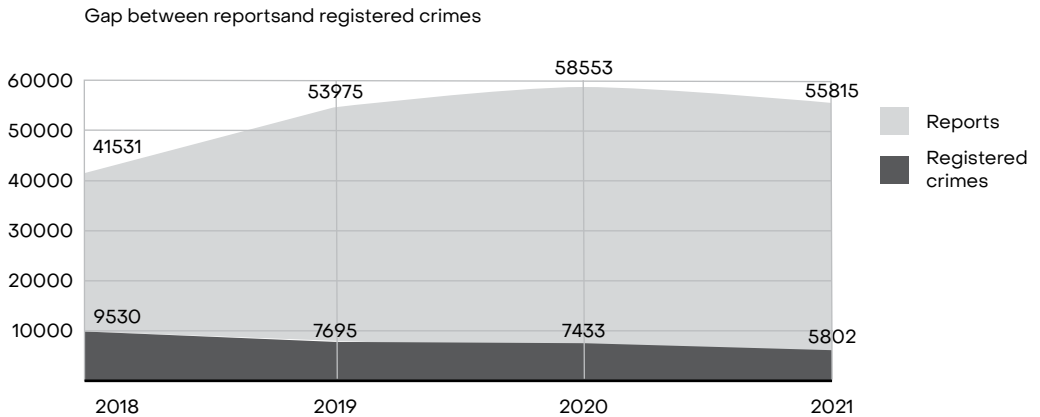


09

Domestic Violence

Monika Guliakaitė

According to the data of the Information Technology and Communications Department under the Ministry of the Interior, the number of domestic violence reports registered with the police in the recent years has been increasing – 41,531 cases of violence were reported to the police in 2018, while in 2021 there were 55,815 such cases. In addition, the number of domestic homicide cases increased by a third in 2020 compared to 2019. Nevertheless, the overall number of registered domestic violence crimes is decreasing – 5,802 domestic violence crimes were registered in 2021, which is 24.6% less than in 2019 (7695).¹



Despite the particularly high number of reports of domestic violence, official statistics do not reflect reality², and this form of violence remains a latent phenomenon. A study commissioned in 2020 by the Women's Information Centre association revealed that 19% of Lithuanians (25% of women and 13% of men) indicated that they had experienced domestic violence, and more than half of them (60%) did not seek help.³ In order to determine the extent of violence within the society, including domestic violence, the Lithuanian Department of Statistics announced in 2021 that it had conducted a statistical survey in April–September, the results of which will be published in 2022.⁴

And it is even more difficult to grasp the actual proportion of persons with disabilities experiencing domestic violence in Lithuania. The United Nations Convention on the Rights of Persons with Disabilities, which Lithuania ratified in 2010, recognizes that women and girls with disabilities are often at greater risk of violence, injury or abuse both at home and outside their home. They are also at a higher risk of experiencing careless or negligent attitudes toward them, inappropriate behaviour or exploitation.⁵ However, research revealed that victims with disabilities make up only 2.7% of all victims of domestic violence in Lithuania.⁶ People with disabilities are often financially, legally or psychologically dependent on others, including abusers, making it difficult for them to escape from a violent environment; individuals may also lack legal knowledge, which causes problems in recognizing crimes, reporting them to law enforcement authorities, or defending their rights. Specialists point out that it is necessary to ensure basic service packages for victims with disabilities, as well as include specialists and organizations with special knowledge and specialization in providing help and support to persons with disabilities. The Ministry of Social Security and Labour and the Ministry of Justice must take on active leadership roles to implement this.

It should also be mentioned that domestic violence includes not only physical but also sexual, psychological and economic violence, however the latter are much more difficult to prove, therefore

officers do not always manage to recognize and record the fact of violence in the absence of obvious signs of physical abuse. In addition, not all forms of violence specified in the Law on Protection against Domestic Violence are criminalized. Victims eventually begin to lose trust in law enforcement institutions and avoid seeking help⁷, which results in them not being able to escape from violent relationships and their abusers.

In 2020, 79.8% of adult victims were women, and 88% of abusers were men. In 2021, these numbers were 78.9% and 87.1%, respectively. Such a clear disproportion has been observed for many years and can be considered a tendency.⁸ This data reveals that domestic violence is very closely related to gender-based violence. Nevertheless, although statistics in Lithuania show a clear disproportion between men and women suffering from domestic violence, so far this is not reflected in the laws in any way – the legislative framework lacks not only measures to reduce this problem, but also the definition of gender-based violence itself or the state's recognition that this type of violence exists in Lithuania.

Legislative Framework

The current version of the Law on Protection against Domestic Violence has been applied for a decade. Although considered progressive in the past, today this law no longer meets the needs of the victims, therefore, in April 2019, a Working Group was convened under the Government to coordinate and address the issues of prevention and protection against violence against women and domestic violence. The goal of the said group was to amend the existing legal regulation so that the Law on Protection against Domestic Violence would also include protection from violence against women, which is defined in the Council of Europe Convention on preventing and combating violence against women and domestic violence (hereinafter – Istanbul Convention).

In early 2020, the Ministry of Social Security and Labour introduced an updated draft law on protection against domestic violence and violence against women, which proposed a 15-days protection order against violence, defined violence exclusively against women, and equalised access to support for victims of violence at home, at work or elsewhere. It took some time to harmonize the draft law which ended up being heavily amended. Draft Law No. XI-1425, registered and submitted to the Seimas in 2021, no longer mentions violence against women neither in its title nor in its text.⁹ On the other hand, various institutions and non-governmental organizations managed to agree with committees of the Seimas on a longer term of the protection order against violence – a police officer, having a basis, will be able to issue the order for a period of 15 days, giving the person to whom the order is issued an opportunity to appeal against it. However, the concept of gender-based violence, which was integrated into the draft law¹⁰, was eventually removed without expanding its scope of application¹¹. The Seimas should decide on the new wording of the law in 2022.

Important changes were made in April 2021, when the Seimas adopted amendments to the newly effective Law on Mediation. After receiving criticism from national experts and international organizations¹², the said law was revised, limiting the possibility of applying mandatory mediation in civil disputes when the parties thereof are subjects of domestic violence.¹³ In October 2021, the unlawful persecution (stalking) of a person, which is very often experienced by people trying to escape from violent relationships, was also criminalized. Amendments to the Criminal Code stipulate that a person who has systematically stalked another person against that person's clearly expressed will and without having a legal basis to do so, and, as a result, the affected person was forced to change his/her place of residence, workplace or educational institution, or there was a negative impact on the affected person's social life or emotional state, the guilty person shall be considered to have committed a criminal offense and shall be punished by public service or a fine, or deprivation of liberty, or arrest.¹⁴

Ratification of the Istanbul Convention – Still an Impossible Mission

Despite the positive changes in the legislative framework, there was still no progress in the matter of ratifying the Istanbul Convention during the discussed period. The political process got stuck due to the different and sometimes misunderstood provisions of the Convention, especially related to the concept of social gender.¹⁵ The actions of President Gitanas Nausėda in the midst of debates

regarding the Convention have also caused considerable outrage. The President's Office has been criticized for improperly using sociological research tools¹⁶ after commissioning a public survey on the ratification of the Istanbul Convention, according to which more people were against it than for it.¹⁷ A survey commissioned by members of the public revealed that, after reformulating the question (i.e. replacing the shortened title of the Convention with its full version – Council of Europe Convention on preventing and combating violence against women and domestic violence), 56.2% of respondents supported the ratification of the Convention. G. Nausėda also mentioned in the public sphere that the provisions of the Istanbul Convention “are also related to certain consequences for our education and even freedom of speech”, thus receiving reactions from organizations defending women's rights and providing specialized assistance¹⁸, as well as from political scientists¹⁹. The confusion that arose in the spring of 2021 prevented holding discussion on the ratification of the Istanbul Convention in the spring session of the Seimas. And, at the time this overview was written, it did not seem that this subject will be included in the agenda of the Seimas any time soon.

COVID-19 Pandemic

As in the rest of the world, the coronavirus pandemic in Lithuania revealed tendencies of domestic violence, as well as highlighted the actual scale of violence and the lack of a support system in Lithuania. According to experts, fluctuations with sharp jumps were seen during both the first and second quarantines, when reports increased by 20%.²⁰ Due to the poor epidemiological situation, many people were forced to work from home, thus spending more time with their abusers. And increasing tensions at home resulted in increasing number of cases of violence. To handle this problem, during the first quarantine, the Lithuanian police urged people to pay attention to possible cases of violence and report them to the authorities²¹, while the Ministry of the Interior, in cooperation with the Ministry of Social Security and Labour, the Police Department under the Ministry of the Interior, and the Emergency Response Centre, prepared and approved a plan of measures for the prevention of domestic violence during quarantine declared due to the COVID-19 pandemic²². Among other measures, it provides the possibility to call for help via SMS message sent to the emergency number 112. In addition, according to the Ministry of the Interior, daily monitoring of events is being carried out as of 16 March 2020, and additional measures are provided to ensure support to victims of domestic violence during the quarantine period, including better response to cases of domestic violence²³.

In summary, it can be seen that the disproportion between reports of possible domestic violence and registered criminal offences reveals the latency of domestic violence – violence is not always properly recognized, especially in terms of psychological, sexual or economic abuse. Nevertheless, it can be seen that in recent years a lot of attention was paid to curbing the problem of domestic violence with criminalization of stalking behaviour, adoption of amendments to the Law on Mediation, and submission to the Seimas of a new version of the Law on Protection against Domestic Violence (at the end of 2021), which includes protection order against violence. Although statistics in Lithuania show a clear disproportion between men and women suffering from domestic violence, this is still not reflected in legal acts. It is also important to emphasize that implementation of individual measures provided for in the Istanbul Convention – criminalization of stalking and repeal of mandatory mediation in cases of domestic violence – deals with the consequences but not the causes. Lithuania must ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence, which would help change the paradigmatic approach to domestic violence, would reduce stereotypes still prevalent in society about the roles of men and women in relationships and at home, and would provide tools to properly help the victims.

ABSTRACT

In recent years, there has been an increase in the number of reports of domestic violence registered with the police, however the number of registered criminal offences is decreasing. According to experts, this does not mean that the situation is improving. On the contrary – official statistics do not reflect reality, and domestic violence remains a latent phenomenon. Important amendments to the laws were adopted during the discussed period – mandatory mediation was abolished in civil cases with recorded domestic violence, and stalking behaviour was criminalized. In addition, a new version of the law was registered in the Seimas, introducing a protection order against violence and paying

more attention to education and prevention. However, there was no progress in the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence during the period under review. The political process got stuck due to the different and sometimes incorrect understanding of provisions of the Convention, especially related to the concept of social gender. The COVID-19 pandemic has further highlighted the scale of domestic violence and the lack of a support system in Lithuania. Fluctuations in reports of possible violence were observed during both the first and second quarantines, with the number of reports increasing by as much as 20%. For this reason, public institutions had to pay more attention to domestic violence – in cooperation with other institutions, the Ministry of the Interior prepared and approved a plan of measures for the prevention of domestic violence during quarantine declared due to the COVID-19 pandemic, which, among other things, provides the possibility to call for help via SMS message sent to the emergency number 112.

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Violence against Women

Paulina Drėgvaitė

Abstract

The topic of violence against women figured prominently in the public sphere of Lithuania during the period under review, especially in the context of debates on the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (also known as the Istanbul Convention). However, the representation and analysis of this phenomenon often lacked a responsible approach, after articles published in the media escalated negative public attitudes towards women who experience violence, thus contributing to the stigmatization of these experiences in the public sphere. Public opinion surveys conducted during this period also confirmed prevailing gender stereotypes in the society. Statistics show that the first year of the COVID-19 pandemic in the world and in Lithuania was marked by an increased number of cases of violence against women, however it is difficult to assess the actual extent of various forms of violence due to lack of research and data in this area.

In 2021, the continuing COVID-19 pandemic was characterized by a global increase in the rates of domestic violence.¹ This was also reflected in Lithuania: according to the data published by the Information Technology and Communications Department (ITCD) under the Ministry of the Interior, 7,132 domestic violence crimes were registered in 2020, with the number of homicides increasing by 33.3% – there were 21 homicides related to domestic violence in 2019, and 29 such homicides in 2020.² In 2020, 13 women were killed in their immediate environment: 6 women were killed by an intimate partner, and 7 by family members or other people in their immediate environment.³ Almost 80% of adult victims were women, 79.5% of which suffered from an intimate partner, and domestic violence crimes accounted for as much as 16.8% of all criminal acts registered in 2020.⁴

Slightly different tendencies were observed in 2021: according to the data of ITCD, 5,802 criminal acts related to domestic violence were recorded during that year, which is 18.7% less than in 2020.⁵ Compared to 2020, sexual violence crimes increased by 63.2% in 2021, however there were 42.3% less registered cases of serious impairment of health, and 25% less homicides – 21 domestic homicides were registered in 2021. 16 of these victims were women, 11 of which were killed by their intimate partner, and 5 by their children or adopted children.⁶ There was also a slight change in the proportion of domestic violence crimes and all recorded crimes – in 2021, domestic violence crimes accounted for 15.1% of all registered criminal acts.⁷ The percentage of victims of domestic violence by gender varied only slightly: out of 6,130 victims, 78.9% were women, of which 80.5% were attacked by their intimate partner.⁸

When assessing such data, it is important to note that, in the context of the COVID-19 pandemic and the quarantine that was declared several times to control the infection, it was very difficult for some individuals to call for help or end abusive relationships and leave abusive homes.⁹ After reviewing the prevalence of these phenomena, as well as the consequences and lack of support resources, the United Nations organization has called the increased rates of violence against women and girls a “shadow pandemic”. The latency of the said phenomena is also reflected in the data of the public opinion survey presented by the Ministry of Social Security and Labour at the end of 2021: 60% of victims of domestic violence did not seek help, and physical abuse was the dominant type of abuse among recorded cases, i.e. cases of psychological, economic, and sexual abuse were almost never recorded.¹⁰

According to the data of the ITCD, 364 criminal acts provided for in Chapter XXI of the Criminal Code (Crimes and Misdemeanours Against Freedom of a Person's Sexual Self-Determination and

Inviolability) were recorded in Lithuania in 2020, 74 of which were cases of rape (Art. 149 of the CrC), 42 cases of sexual assault (Art. 150 of the CrC) and 4 cases of sexual harassment (Art. 152 of the CrC).¹¹ According to the provided data, all victims of rape were women and the accused persons were men. Women were also the dominant gender among victims of other criminal acts listed in Chapter XXI of the CrC with 222 registered women and 42 registered men (most of which were minors), respectively.¹²

In 2021, there was a slight decrease in the number of these acts: 294 criminal acts were recorded, including 68 cases of rape, 77 cases of sexual assault and 2 cases of sexual harassment.¹³ According to the data provided by the ITCD on suspects (accused persons) and victims in Lithuania, all rape victims were women, and the accused were men. As in 2020, women were the dominant gender among victims of crimes listed in Chapter XXI of the CrC: 256 victims were women and 25 were men.¹⁴

Based on the available data, the Office of the Equal Opportunities Ombudsperson (OEOO) received 3 complaints of sexual harassment, with investigations being launched regarding two of them.¹⁵ This number did not change much in 2021 during which OEOO received 2 complaints about possible acts of sexual harassment.¹⁶ It is important to note that investigations into this issue attributed to OEOO take place in the context of labour relations, therefore the provided numbers do not reflect the actual extent of sexual harassment in the country.¹⁷

Given such tendencies, it is also important to assess the provision of support to victims of violence and sexual abuse. Lack of specialized integrated services and information about available services for victims of sexual violence is a problem that has been emphasized by specialists and non-governmental organizations for many years.¹⁸ In addition, there are cases of insensitive behaviour among healthcare professionals who communicate with victims of sexual violence. The procedure for the provision of healthcare services to women who may have become victims of sexual violence came into force as of 1 January 2022, establishing requirements for healthcare institutions (HCIs), specialists providing support, facilities and medical measures. Integrated support to patients who have suffered from sexual violence will be provided continuously (24/7) in HCIs located in five major cities of the country. And if a specialist, who is working in a HCI that does not provide the said services, suspects or determines that a patient has suffered from sexual violence, transportation of such patients will be organized to the nearest institution providing the necessary services.¹⁹

When considering the given data, it can be seen that victims of domestic and sexual violence in Lithuania are mostly women, however there are still no gender-sensitive laws in Lithuania that would take this aspect into account. At the beginning of 2022, when the Seimas was considering amendments to the Law on Protection against Domestic Violence, the Human Rights Committee proposed to include the concept of gender-based violence in this law.²⁰ This proposal was supported by human rights experts, representatives of NGOs and Equal Opportunities Ombudsperson Birutė Sabatauskaitė, stating that the introduction of this concept in the law would allow “to plan targeted prevention and support measures for both women and men, and to respond to violence by recognizing recurring motives”.²¹ Nevertheless, this proposal was rejected in the Seimas.²²

Change in Public Attitudes

The first study on sexual harassment in Lithuania was conducted in 2018, revealing that, although society considers this phenomenon a serious problem, responsibility for harassment tends to be placed on the victim.²³ Similar trends could be seen in subsequent population opinion surveys conducted in 2020–2021. In the Spinter Research survey commissioned by the OEOO on violence against women and gender roles which was conducted in February 2020, more than half (54%) of respondents in the municipalities of Alytus, Jonava and Ukmergė agreed with the statement that “women often provoke violence themselves”, 57% agreed that “women tend to magnify the situation when blaming men of being violent”, and a third of respondents (31%) agreed with the statement that “some women like to be abused”.²⁴

Such attitudes became even more evident after a similar study was conducted in October 2021: almost two-thirds (65%) of respondents agreed that “women often provoke violence themselves”,

and 64% agreed that “women tend to magnify the situation when blaming men of being violent”. However, the number of respondents (21%) who agree with the statement that “some women like to be abused” has decreased by 10%.²⁵

The said surveys included adult respondents (between 18 and 75 years old), however surveys conducted in schools in the said municipalities in 2020 and 2021 reveal similar trends, i.e. widespread prevalence of gender stereotypes. For example, in surveys conducted in 2020 and 2021 by the Centre for Equality Advancement and the Lithuanian Human Rights Centre, as many as 44% of high school boys agreed with the statement that girls themselves provoke sexual harassment, while 27% of surveyed boys agreed with an analogous statement about violence.²⁶ It should be noted that it is difficult to assess the extent of sexual harassment in the country's educational institutions, since research in these areas, e.g., gender-based bullying, has not been conducted.²⁷

Such attitudes are also influenced by the media. During the period under review, certain crimes against women and girls had a large negative resonance in society, such as the case of the beaten and raped underage girl from Jurbarkas, the proceedings of which started in 2019 and still continued on at the time this article was written (at the beginning of 2022).²⁸ However, extremely insensitive articles about women suffering from domestic violence continued to appear in the national media. For example, the headline of the article published in August 2021 about a woman murdered by her husband in Vilnius stated that: “Motive behind the gruesome murder in the capital: gunshots were fired due to the spouse's negative response”, highlighting the victim's fault in her own murder and thus contributing to the victim-blaming narrative without emphasizing the perpetrator's responsibility.²⁹

It is also worth mentioning cases where the murders of women were romanticized and presented as the outcome of a romantic relationship, for example, in the description of the case of a woman murdered by her partner in Kaunas in October of 2021, a statement was made that “unreciprocated romantic feelings may have caused the conflict”³⁰. The murder of a woman who was burned alive by her partner in 2021 was described in a similar way: media articles pointed out that the victim herself “was not a saint” and revealed details about her personal life.³¹

There was also a space in public domain for discussions about the possibly changing attitudes of society towards violence against women. In this context, the public discussion caused by the decision of the telecommunications company Telia to use in their advertisements basketball players Darjuš and Kšyštof Lavrinovič, who were convicted of raping an underage girl back in 1999, should be singled out. After singers and public figures Erica and Jurgis Didžiulis announced that they are refusing to use Telia services due to such a choice, the telecommunications company decided to stop the said advertisement. While the basketball players themselves said they had the right to demand “not to be called ‘convicted rapists’ and not to be associated with the crime any longer”³². Regarding the term “moral statute of limitation” for this crime, human rights experts have noted that public support for these basketball players is a litmus paper test revealing the tendency to shift responsibility for abuse onto the victims themselves.³³

It should also be noted that, when the topic of ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (better known as the Istanbul Convention) dominated the media in the first half of 2021, representatives of non-governmental organizations protecting human rights and the rights of women also had an important platform for disseminating the stories of victims.³⁴ This topic received even more attention during the 16-day campaign to raise awareness of violence against women and girls organized in November-December: for the first time, this topic was covered by the most popular Lithuanian magazine “Žmonės” on 25 November 2021, which is the International Day for the Elimination of Violence against Women.³⁵

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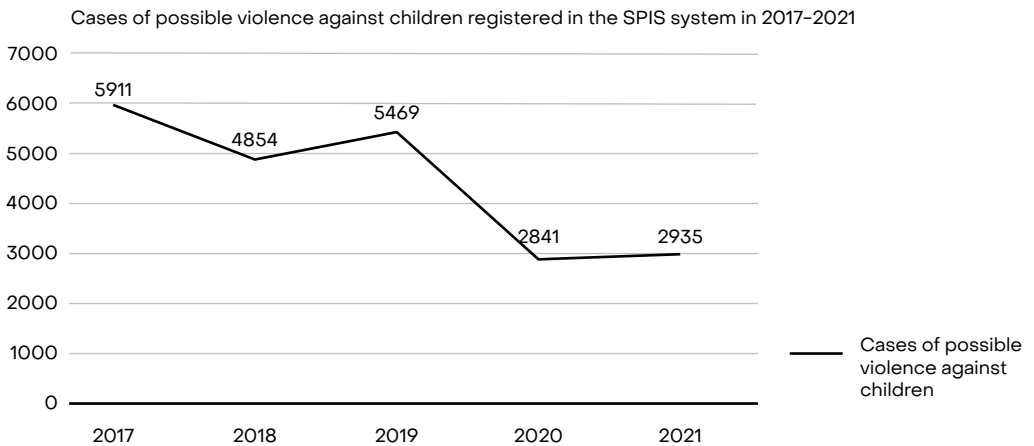
Violence against Children

Mėta Adutavičiūtė

Compared to previous years, registered cases of violence and possible violence against children have decreased nearly two times during the period under review. Children typically experience violence from adults in their close environment, therefore, due to the fact that children did not go to school, medical institutions and social clubs during the Covid-19 pandemic, it is likely that a large number of cases did not come to the attention of appropriate authorities. Because children studied from home, it was much more difficult for them to report that they have been abused by a family member, which highlights the need to actively raise awareness among the public and to encourage people to report straightaway a witnessed or suspected case of violence to the authorities. Whereas institutions should look for proactive ways to reach children and to create and develop safe, easily accessible, confidential and widely known channels where children, their parents, carers and other persons could report violence, thus ensuring the protection of a child and provision of necessary support.

Statistical Data

Possible cases of violence against children are registered in the Social Family Support Information System (SPIS), and the Child Rights Protection and Adoption Service publishes summarized statistics in its annual reports. Statistics include physical, psychological, sexual abuse and neglect. 2,841 cases of possible violence against children were recorded in 2020, and 2,935 cases in 2021.¹ This is almost twice as few cases as was recorded in 2019 and in previous years.



Given the latency of violence against children and restrictions caused by the Covid-19 pandemic – distance learning and limited social contacts of children, it is likely that a significant number of cases did not come to the attention of appropriate services. According to the data of “Child Line”, physical abuse was the fourth most frequently mentioned problem among children in 2020; in the period of three quarters of 2020, “Child Line” received 1,230 calls from children regarding physical abuse, 395 – emotional abuse, 275 – sexual abuse, 134 – neglect, and 1,417 calls regarding bullying.²

Similar trends can be seen in the statistics of violent crimes against children recorded by the Information Technology and Communications Department. 794 criminal acts related to violence against children (physical, psychological, sexual abuse and neglect) were registered in 2020, and 753 such acts were registered in 2021. Thus, compared to previous years, almost twice less criminal acts related to violence against children were registered during the period under review.

Given the high number of abused children contacting support organizations such as the “Child Line”, it is likely that the extent of violence against children did not decrease during the pandemic and quarantine, however there was an increase in the latency thereof. This signals the need to create and develop safe, accessible and confidential channels enabling children, their representatives and other persons to report cases of suspected or actual violence against children to appropriate services, as well as the need to carry out violence prevention and education programmes among target groups.

In general, when looking at official statistics, it should be noted that they reflect only the number of cases of violence that came to the attention of institutions, but do not show the actual extent of violence against children in Lithuania. According to a study published in 2020 on the prevalence of violence against 12–16 year old children, after surveying 1,299 children, it became clear that as many as 71% of them have experienced some form of violence at least once in their life – psychological, physical, sexual abuse, neglect or abuse on the Internet.³ Based on a survey conducted during the study, 22.7% of children indicated that they had experienced neglect at least once, 47% – psychological abuse, 34.6% – physical violence, 31.8% – sexual abuse on the Internet, 9.9% – sexual violence by adults, and 17.1% – sexual abuse from peers. Therefore, when planning and implementing strategies and measures for the prevention of violence against children, intervention and provision of support to children, it is necessary to take into account that violence against children remains a latent crime, and to find effective ways to reduce this latency so that children affected by violence are not left without the necessary protection and support.

Prevention of Violence Against Children During Covid-19

Given the challenges of the Covid-19 pandemic in ensuring the protection of children against violence, the Ministry of Social Security and Labour (MSSL) prepared various targeted recommendations for municipalities in 2020, such as “On provision of integrated support and other social services during quarantine”, “On ensuring a safe environment for children during quarantine”, etc.⁴ In 2020, additional funds were allocated to the “Parent Line” project, where psychologists provide consultations to parents on positive parenting methods and other relevant matters. Additional funds have also been allocated to organizations providing emotional support by phone.⁵ Children calling the “Child Line” were given the option to be connected with a Child Rights Protection Service Child Helpline consultant who would be able to provide the necessary help or organize the provision of help based on the child’s needs.

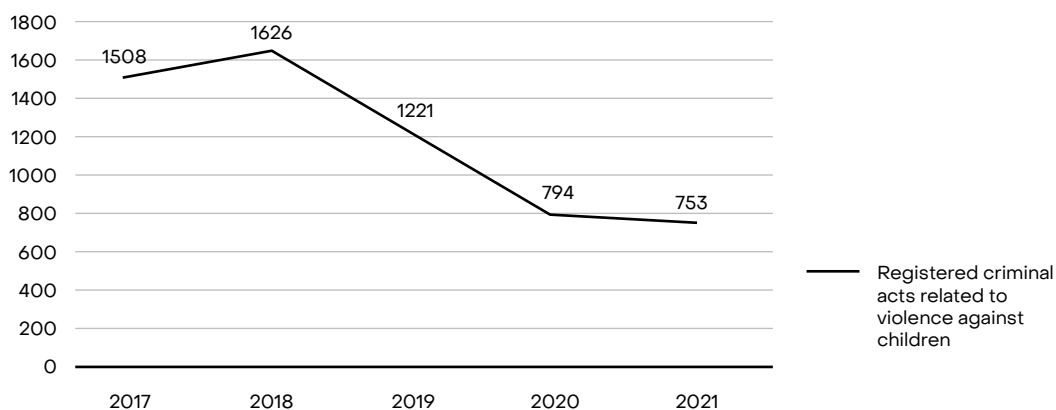
In the first half of 2020, after taking into account the increased cases of domestic violence, MSSL carried out a preventive education campaign during which educational information about various forms of violence against children was prepared and published on the ministry’s website, and an advertising campaign was implemented on the social network Facebook, reaching 239,602 children as well as 200,097 parents/guardians and teachers.⁶ Information messages were sent personally to children, guardians, parents and teachers via the electronic daybooks “Tamo” and “Mano Dienynas” – the message was opened 174,768 times in both daybooks, and the link provided in the message redirecting to a page with more information about violence and how to get help (on MSSL website) was clicked 62,262 times.⁷

These and similar educational and prevention initiatives with high reach could be organized and implemented on a regular basis, including through preparation of information on how to recognize violence and information on support options for individual target groups by differentiating its content according to the needs of each target group.

Legal Regulation

On 14 January 2021, the Law on Support to Victims of Crime was adopted by the Seimas and entered into force on March 1 of the same year.⁸ The law aims to ensure that all victims of crime receive the emotional, psychological, practical and other help that they need. Among other novelties, the law provides for the so-called first contact institution, to which a victim of crime turns first. Pursuant to Art. 9(2) of the law, when the victim is a child and he/she or his/her parents or other legal representatives contact a first contact institution (pre-trial investigation institution, Prosecutor’s office (prosecutor)

Statistics of the Information Technology and Communications Department; registered criminal acts related to violence against children 2017–2021



or court, Emergency Response Centre, municipality administration, social service institution, any educational or healthcare institution, or State Child Rights Protection and Adoption Service), the institution informs the child, his/her parents or representatives about the possibility of receiving the support provided for by law, and reports the case to the State Child Rights Protection Service no later than on the next working day. Art. 4(4) of the law also provides that, when providing support to a child, the participation of his/her legal representative must be ensured, if this does not conflict with the child's interests. In April 2021, the right to provide support under this law was granted to 26 accredited organizations.⁹ A procedure for providing accredited support under the said law was approved by order of the Minister of Social Security and Labour, detailing the specific aid that support services must provide, by taking into account the individual needs of victims.¹⁰

Since the law provides for a fairly wide range of first contact institutions and their important duty to immediately notify the Child Rights Protection Service of cases of child abuse, it is very important to thoroughly acquaint specialists of first contact institutions with the obligation provided for in this law and the procedure for its implementation. It is also necessary to educate the public about this law and the possibilities for victims of any crime to get the necessary help free of charge and confidentially, by widely publishing the contacts of support services.

Policy Measures

Various measures to respond to violence against children are provided for in several strategic documents (Child Welfare Action Plan for 2019–2021¹¹, Plan for Making 2020 the Year of the Emotional Well-Being of Children¹², 2017–2020 Action Plan for Implementation of the National Programme for the Prevention of Domestic Violence and Provision of Support to Victims for the Period of 2014–2020¹³), all of which show the state's efforts to expand support to abused children and prevent violence against them, however such provision of measures in separate documents does not ensure a strategic, systematic and integrated approach to the solution of this problem. After the expiration of the National Programme for the Prevention of Violence against Children and Support for Children 2011–2015¹⁴, a new programme has not been approved in Lithuania.

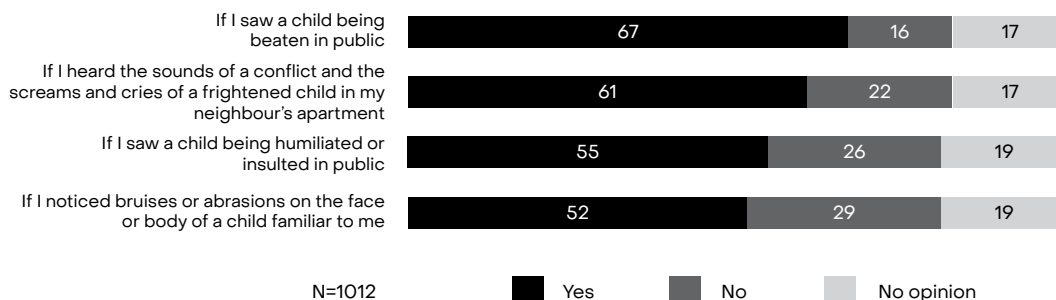
Lack of a unified strategy for ending violence against children complicates the monitoring of the implementation of measures intended to respond to violence against children, as well as the evaluation of their effectiveness; documents also lack more ambitious indicators showing the impact of the measures, for example, the extent to which violence against children is expected to be reduced during the implementation of the programme, etc. In addition, in order for the strategic document of response to violence against children to comply with the recommendations of the United Nations Committee on the Rights of the Child, its implementation should involve various institutions – Ministry of Education, Science and Sports, Ministry of the Interior, Ministry of Justice, Ministry of Health,

However, according to the data of MSSL, a new comprehensive programme for the prevention of violence against children and support to children will not be prepared, since related measures will be provided for in the Development Programme for Strengthening of the Family Policy.¹⁵ However, after examining this programme, it can be seen that only one targeted measure is provided in the field of response to violence against children and prevention of violence – strengthening of the implementation and protection of children's rights.¹⁶ Even though the programme includes various financial, family strengthening, and gender equality promotion measures that could contribute to the prevention of violence against children, it lacks tackling violence against children as one of the priorities, and more specific, targeted, strategically planned measures that include both prevention and intervention, as well as providing support to children who suffered violence. A separate measure is provided for in the Social Cohesion Development Programme – to develop an effective prevention and support system in the field of domestic violence and to strengthen inter-institutional cooperation¹⁷, however this general measure is aimed at adults who experienced domestic violence as well as children, without taking into account their unique needs and greater vulnerability. Although it is argued that the aim of such a system is to reduce the amount of various separate programme documents by combining them into more general programmes, such policy of response to violence against children does not comply with the recommendations of the UN Committee on the Rights of the Child and good practices in the field of prevention of violence against children and protection of children from violence. In addition, inclusion of measures in the Development Programme for Strengthening of the Family Policy, which is prepared under the Law on Strengthening of the Family and is primarily aimed at strengthening the family institution, basically indicates that ensuring the rights of children is perceived only as a family policy matter, which does not correspond to the principle of the human rights-based approach to children as independent subjects of rights arising from the UN Convention on the Rights of the Child.

Public Attitudes about Violence Against Children

A public opinion survey on human rights issues in Lithuania, commissioned by the Human Rights Monitoring Institute and conducted in March of 2021¹⁸, has revealed that 18% of respondents agree or mostly agree with the statement that parents have the right to use physical punishments against their child, however as many as 78% disagree or mostly disagree with this statement. 61% of respondents agreed or mostly agreed that the child rights protection service should take a child from his/her parents if the parents are violent towards the child; 28% disagreed or mostly disagreed with this statement. The survey also sought to ascertain whether respondents would take action in situations where a child is or may be abused.

I would take action, intervene or call the Child Rights Protection Service:



67% of respondents said that they would take action if they saw a child being beaten in public, 61% – if they heard the sounds of a conflict and the screams and cries of a frightened child in their neighbour's apartment, 55% – if they saw a child being humiliated or insulted in public, and 52% – if they noticed bruises or abrasions on the face or body of a child familiar to them. Thus, more than half

of the respondents said that they would not ignore situations in which a child is being abused or there is a risk that he or she is potentially being abused or has been abused.

In summary, the majority of Lithuanians do not support the use of physical punishments (78%) and believe that child protection services should take a child from his/her parents if the parents are violent toward the child (61%). In addition, more than half of respondents have indicated that they would take action or call child protection services if they saw a child who is abused or may have been abused. So, it appears that intolerance towards violence against children is gradually growing in our society, and there are now more people who do not support any kind of violence against children and would not be indifferent if they witnessed such violence. At the same time, part of our society still tends to justify violence against children, including physical punishment, and would not react in any way to situations of violence against children. Therefore, when educating the public, it is particularly important to reach groups of society that still tend to tolerate violence against children or consider it socially acceptable.

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Human Trafficking and Other Forms of Exploitation

10



Human Trafficking and Other Forms of Exploitation

Mazvydas Karalius

Human trafficking is defined as the recruitment, transportation, transfer, harbouring or reception of persons by using threats, force or other coercion, through abduction, fraud or deception, or abuse of position or vulnerability of a person, and by giving or receiving money to receive permission of a person controlling another person, when the purpose of this act is exploitation.¹ This is a latent and difficult-to-recognize crime against human dignity and freedom. The number of registered victims in the EU is over 14 thousand, of which 60% are victims of human trafficking for sexual exploitation (90% of which are women), 15% – victims of labour exploitation (about 68% of them are men), and 18% – victims of other forms of exploitation, such as forced crime, begging, organ trafficking, etc.²

Measures of the policy for combating human trafficking, training of specialists and organizing preventive campaigns and events continued to be implemented in Lithuania in 2020–2021.³ On the World Day against Trafficking in Persons, performances were held to draw attention to the dangers of human trafficking⁴, with institutions⁵ and non-governmental organizations (hereinafter – NGOs)⁶ preparing prevention material and organizing public discussions⁷. A remote training platform was created to help specialists develop their competences in identifying (potential) victims of human trafficking, and a general database of measures for prevention of human trafficking was later integrated into it.⁸ The National Agency for Education provided specialists with combined knowledge and practical skills in the areas of prevention of human trafficking, bullying and violence⁹. A special app was also created for both teachers and students¹⁰. Lithuanian diasporas abroad were actively involved in these prevention activities. It is also worth mentioning the “Raktas” (“Key”) project of the Lithuanian community in Spain, during which preventive measures were prepared.¹¹ Currently, similar projects are being implemented by Lithuanian communities in Italy and the United Kingdom.¹²

Official statistics show two trends: a consistent decrease in the number of pre-trial investigations (PIs) into human trafficking, as well as a decrease in the number of closed investigations. 11 PIs were launched in 2020 and only 6 PIs were launched in 2021 (see Figure 1). In Lithuania, the vast majority of them are initiated due to human trafficking for commission of criminal acts (51 PIs were initiated in 2015–2021), sexual exploitation (36 PIs), exploitation for forced labour and services (24 PIs), and forced marriage (10 PIs). In recent years, there was an increase in the number of pre-trial investigations into cases of forced labour in the country.¹³

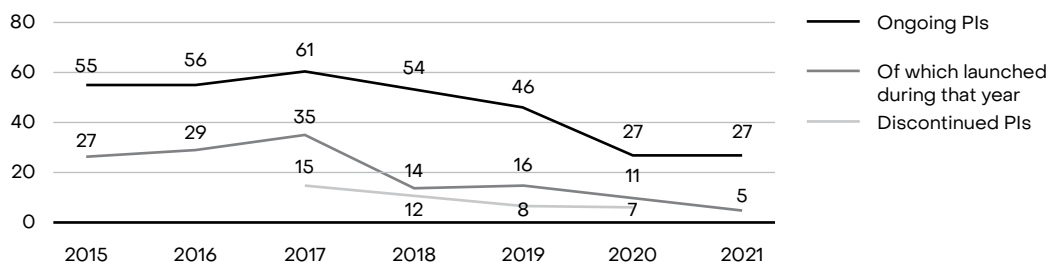


Figure 1. Total number of ongoing, launched and terminated pre-trial investigations into human trafficking (pursuant to articles 147, 147(1), 147(2) and 157 of the Criminal Code (CrC))¹⁴

The number of persons recognized as victims of human trafficking¹⁵ is also decreasing: there were 62 of such victims in 2015, 45 in 2016, 60 in 2017, 44 in 2018, 39 in 2019, and 24 in 2020. Most of them were citizens of the Republic of Lithuania. In 2020, one Thai and one Indian citizen (both women)

were recognized as victims of labour exploitation in Lithuania. It should be noted that the decreasing numbers in official statistics should not be directly linked to the decreasing scale of human trafficking, since many manifestations of this crime remain unnoticed.

Changes in the Policy of Combating Human Trafficking

The main strategic document for combating human trafficking in Lithuania is the Action Plan on Combating Human Trafficking 2020–2022, which consists of 4 main objectives (strengthening coordination, improving prevention and pre-trial investigations, strengthening support to victims, and building the competences of specialists) and 65 measures of combating human trafficking, implemented by ministries, organizations, institutions and some of the municipalities.¹⁶ In Lithuania, the fight against human trafficking is coordinated at several levels. On the one hand, there is the National Commission for Combating Trafficking in Human Beings¹⁷. It should be mentioned that the management of the said commission was transferred back to the Ministry of the Interior (hereinafter – MI) in 2021, even though it was chaired by the Government until then. On the other hand, some municipalities have established their own Working groups for coordination of combating human trafficking. According to the MI, such groups were formed and coordinating persons were appointed in 21 municipalities.¹⁸

An independent assessment of the previous Action Plan on Combating Human Trafficking 2017–2019 was implemented during the discussed period,¹⁹ revealing a number of gaps in coordination of efforts to combat human-trafficking and in other areas. E.g., the Commission only includes representatives of several large city municipalities but lacks representatives of trade unions or organizations representing migrants and recipients of asylum.²⁰

It should be noted that, in Lithuania, the National Rapporteur of the Republic of Lithuania for counter-THB issues is responsible for the analysis of tendencies in human trafficking and preparation of proposals for the country's further progress in combating it, and this role was assigned to a representative of the MI.²¹ This means that the same institution sets policy guidelines as well as assesses the policy. Presumably, in order to have a more objective view of the situation of human trafficking and exploitation in Lithuania, the mandate of the national rapporteur should be transferred to an independent institution.

Despite the fact that the descriptions of procedures of municipal working groups were formally approved, only a part of them organized regular meetings or carried out other measures to combat human-trafficking. Coordinators and other municipal specialists lacked knowledge about the forms of human trafficking and the characteristics of victims, responsibilities of coordinators were not clearly defined, and “institutional memory” was being accumulated slowly.²² There is lack of practice of inter-institutional cooperation and data exchange, while the identification of victims and their referral also remains difficult. Despite the fact that the aim is to treat the fight against human trafficking in Lithuania as an area of inter-institutional activity, a number of specialists still perceive it as the exclusive responsibility of the MI or NGOs.²³ Nevertheless, an informal network of municipal coordinators for combating human trafficking was formed in 2021, the purpose of which is to strengthen the response of municipalities to manifestations of human trafficking. The description approved during the discussed period regarding the identification of victims of human trafficking in foreign countries, the provision of support to them, and the use of funds for victims and prevention measures is also assessed positively.²⁴ It establishes the consular officer's responsibilities in identifying victims of crime, informing NGOs about the case (with the consent of the victims), organizing or providing them with the necessary support and compensating support services.

Victim Support and Protection Systems

In the period of 2020–2021, there was an increase in the funding allocated by the Ministry of Social Security and Labour to NGOs providing specialized support to victims or potential victims. Over 240,000 euros were allocated from the state budget to NGOs (EUR 190,000 in 2019, EUR 165,000 in 2018, EUR 115,000 in 2017). In 2020, support was provided to 208 people (112 men and 96 women), mainly via the provision of essential items, integration into society, handling of documents, and

provision of legal, psychological and other assistance.²⁵

The National Association against Human Trafficking (NAHT) was established at the end of 2019, uniting the main NGOs providing support to victims of human trafficking. A 24-hour helpline was established with the aim of providing consultations to victims and representatives of public institutions, as well as referring people to NGOs (consultations are provided in Lithuanian, English and Russian).²⁶ According to the data of 9 September 2021 – 31 December 2021, 46 calls were received from potential victims of human trafficking, persons reporting possible exploitation of other persons, and persons who wanted to receive information.²⁷

However, the distribution of support services remains uneven between cities and regions, and a considerable number of specialists lack the competences in identifying victims (potential victims) of human trafficking and providing them with the necessary services. The country lacks high quality legal aid and lawyers representing the interests of victims. There is also a lack of safe shelters that would meet the needs of victims and continuously provide integrated support.²⁸

A study conducted in Lithuania has revealed that the country's legal system lacks low-threshold protection programs for victims cooperating with law enforcement, and, due to the relatively long duration of pre-trial investigations, these people often experience physical, psychological and economic pressure from criminals.²⁹ Therefore, it is necessary to recognize the role of victims of human trafficking and exploitation in criminal proceedings at the state level, as well as to ensure their rights and to change the legal acts on the granting of protection to persons giving testimonies. An example of a case examined by the Supreme Court of Lithuania should be mentioned, in which a group exploited people for the purposes of theft and slave labour in the United Kingdom. The victims suffered numerous threats and physical violence for cooperating with law enforcement.³⁰ A positive thing is that, in this case, special protection was assigned to the victims both during the pre-trial investigation and throughout the criminal proceedings.

During the discussed period, an important step was taken forward in the field of providing support to victims of sexual violence. The procedure for the provision of healthcare services to potential victims of sexual violence came into force on 1 January 2022.³¹ Lack of specialized integrated services for victims of sexual violence is a problem that was emphasized by specialists and NGOs for many years.³² Healthcare professionals still often have mocking, victim-blaming attitudes, and most necessary services and tests are not reimbursed. The procedure sets out requirements for healthcare institutions (HCIs), specialists providing support and assistance, facilities and medical measures. Assistance will have to be provided continuously (24/7) in five HCIs, and, if necessary, the transportation of patients to the nearest institution providing assistance will be organized.³³

Regulation of Prostitution

According to the currently applied regulations, prostitution is prohibited in Lithuania. Both prostitution and the purchase of sexual services are subject to administrative fines from EUR 90 to EUR 140; in case of repeated offenses, fines can reach EUR 140 to EUR 300 (Art. 487 of the Code of Administrative Offences (CAO))³⁴. Even though a resolution was adopted by the Seimas in 2014, proposing to the Government to abolish administrative liability for prostitution³⁵, no progress was made on this issue. Discussions arose again at the end of 2019 regarding the proposal to apply the so-called Nordic model in Lithuania, according to which no administrative liability would be applied to prostitution³⁶, and the paid use of sexual services would be considered a misdemeanour punishable by fine or arrest³⁷. It was suggested that the Government or another authorized institution prepare a programme with guidelines on how to leave prostitution.

However, the Government did not approve these proposals. It was stated that the current legal regulation preventing profiting from another person's prostitution (CrC 307) or from involving another person in prostitution (CrC 308) is sufficient, and criminal law cannot be used to solve problems, the elimination of the causes of which is not the subject of the criminal policy.³⁸ According to the Ministry of Justice, the abolition of administrative liability for prostitution "would negate the system of values established in society, according to which prostitution has been treated as an activity that violates generally accepted norms of morality and is intolerable in society"³⁹.

It is important to note that the current regulation of prostitution does not help prevent human trafficking. Persons engaged in prostitution are often repeatedly punished and some of them are identified as victims of human trafficking only much later on (if at all). Even when experiencing violence or abuse, victims have limited options and are afraid to turn to law enforcement for help. There are no specialized programmes for those who want to leave prostitution, as well as no fully developed and reimbursed healthcare and other services in Lithuania. Finally, it should be noted that, in Lithuania, the majority of fines are imposed for engaging in prostitution *de facto*, but there is practically no punishment for buying prostitution services (see Figure 2).

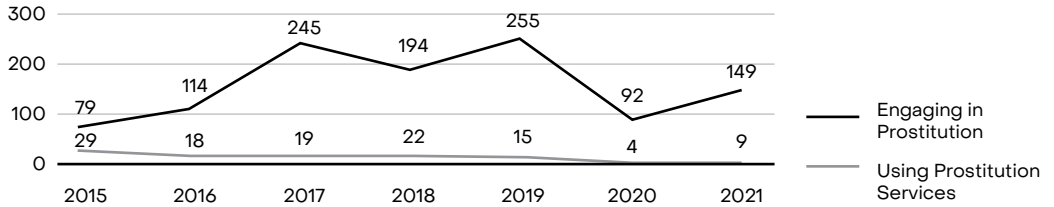


Figure 2. Number of registered misdemeanours according to Art. 487 of CAO “Prostitution and Paid Use of Prostitution Services” (Art. 182 of CAO prior to 31 December 2016)⁴⁰

Exploitation of Foreigners in Lithuania

Although Lithuania has long been described as a country of origin and transit for victims of human trafficking, thousands of migrants come here to work every year. 2,145 temporary work-based residence permits were issued in 2015, with this number increasing 10 times over a period of five years (2016 – 4,264, 2017 – 9,290, 2018 – 12,472, 2019 – 21,279, o 2020 – 22,774)⁴¹. 28,401 national (D) visas were issued in 2020.⁴² The vast majority of migrants come from Ukraine, Belarus and Russia to work in transport, construction, manufacturing, agriculture and other sectors where labour exploitation is rife.⁴³ To control illegal labour, the State Labour Inspectorate (SLI) carried out nearly 5,000 inspections in various sectors of economic activity in 2020 (over 7,000 each year in 2017, 2018 and 2019), finding 359 illegally employed non-EU citizens.⁴⁴ For comparison, despite the fact that 2,000 fewer inspections were carried out in 2020, 89% more illegally employed migrants were found compared to the number of such migrants in 2019.

On 1 August 2020, a specialized group of experts for the control and prevention of human trafficking for forced labour was established by the SLI, the purpose of which was to analyse possible cases of forced labour, collect data and transfer it to pre-trial investigation institutions, as well as compensate the victims for damages.⁴⁵ It was stated that, if the pilot project proves successful, such groups will be established in all territorial divisions of the SLI.⁴⁶ A cooperation agreement was signed between SLI and NAHT which undertook to exchange information.⁴⁷

Good examples of investigative journalism appeared in the public sphere during the discussed period, revealing the conditions in which migrants are working in Lithuania. The research of B. Davidonytė and D. Pancerovas (2021) on exploitation in the freight transport business sector revealed that foreigners from the said non-EU countries are often paid in daily allowances, migrants are forced to comply with illegal demands of their employers and illegal deductions from their wages, as well as sign the so-called cash expenditure orders and employment contracts in a language they do not understand.⁴⁸ The research of S. Malinauskas (2021) has revealed the exploitation of migrants in massage parlours, pointing out how the residence and work permits issued to foreigners are directly “tied” to their employers, and how the possibilities to change them are bureaucratically complicated.⁴⁹ Migrants often put up with being exploited by their employers due to fear of losing their jobs and being deported.

In January of 2021, a case was made public about a prostitution network operating in Lithuania, in which women from Ukraine, Belarus, Moldova and other countries were being exploited. A Lithuanian

couple living in Spain was responsible for organizing this illegal business. It is estimated that “around 300 foreign prostitutes worked for the said couple over a period of a couple of years, and there was not a single Lithuanian among them”⁵⁰.

These examples show that there is a lot of exploitation of foreigners in Lithuania, although this is not really reflected in the statistics. So far, there is only fragmental cooperation between Lithuania and the countries of origin of migrants, and the availability of assistance services for them remains insufficient. Lack of high quality translators and interpreters, especially those working with languages of geographically remote countries, makes it difficult to ensure the right to translation and interpretation and the full involvement of migrants in the process, which sometimes leads to the termination of pre-trial investigations. Due to the said lack of appropriate specialists, it is difficult to organize provision of information, counselling, psychological support and other types of help. Lithuania has a de jure decision-making period during which a foreigner, as a victim of crimes related to human trafficking, has the right to decide whether to cooperate with law enforcement (30 calendar days)⁵¹. During the said period, that person must receive an assistance service package and cannot be deported from the country. However, this mechanism does not work in Lithuania de facto, and no separate financing is provided to fund it.

In conclusion, while there are positive developments in the fight against human trafficking, there is still lack of a human rights-based and victim-centred approach. It is important to consider that human trafficking has many forms and the spectrum of victims consists of different vulnerable social groups. In 2022, Lithuania marks the tenth anniversary of the ratification of the Council of Europe Convention on Action against Trafficking in Human Beings. This is a great opportunity for the state to review the carried out work and assess what else could be done to ensure the interests of victims of human trafficking.

ŠALTINIAI

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Migrant and Refugee Rights

11



Migrant Rights

Giedrė Blažytė ir Akvilė Kriščiūnaitė

At the beginning of 2021, foreigners who declared their place of residence in the Republic of Lithuania accounted for 3.12% of the total population of the country (2.64% in 2020). The last few years were marked by considerable changes in migration trends. In 2020, for the first time since 2004, the number of non-European Union (EU) nationals coming to live in the Republic of Lithuania was higher than the number of Lithuanian nationals returning to Lithuania (see diagram 1). During the year, the number of non-EU nationals living in Lithuania has increased by 21.7%.¹ The majority of non-EU nationals who immigrated to Lithuania came from Ukraine, Belarus and the Russian Federation, with work remaining the main reason for immigration.

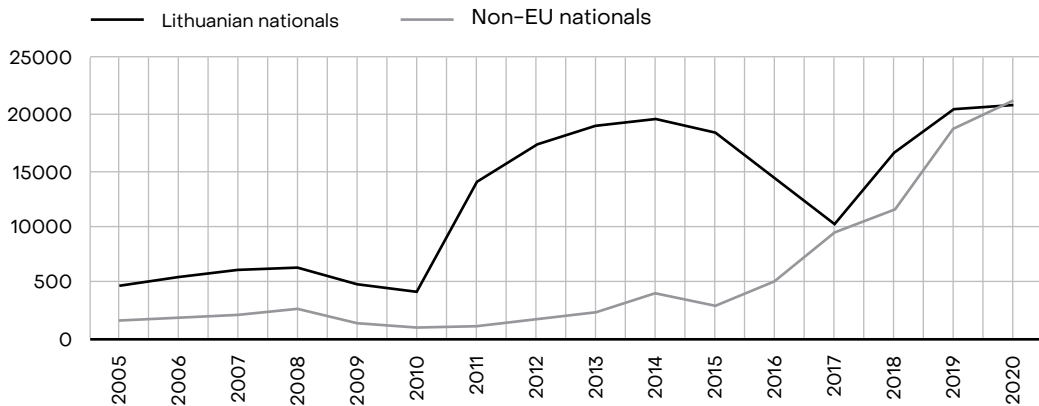


Diagram 1. Immigration trends in Lithuania (2005-2020)²

There were significant changes in the area of migrant rights during the period under review.

- As of 1 January 2021, there were changes in the procedure for declaring the place of residence of nationals of foreign countries to whom a document confirming or granting the right to live in the Republic of Lithuania was issued for the first time.³ From now on, EU and non-EU nationals can choose where to declare their place of residence: i) at the Migration Department (when applying for a residence permit); ii) in the eldership (the smallest administrative district in Lithuania – ed.) or municipality within one month from the date of receiving a residence permit in the Republic of Lithuania.⁴

Despite the new option to declare one's place of residence when applying for a residence permit, it does not reduce the bureaucratic challenges faced by non-EU nationals who want to declare their place of residence. According to the stipulated requirements, the consent of the owner of housing on whether to allow a national of a foreign country to live in his property must be confirmed by a notary or eldership administrator. If a written consent is not provided, the owner must come to the Migration Department. It is also mandatory to have a signed housing lease or use agreement. According to the data of the study "Increasing the competencies of municipalities in providing services to nationals of third countries"⁵, it is typically challenging for a foreigner to declare his or her place of residence in a leased housing. The experiences of participants of the study have revealed that only a small percentage of housing owners agree to have tenants declare their place of residence in their housing, while some of them even take advantage of such requirements and raise the price of housing rent, or impose various additional conditions.

- Provisions of the Law on the Legal Status of Foreigners became effective on 1 March 2021, which abandon the division of national visas into single-entry and multiple-entry. Pursuant to Art. 17 of the said law, “the foreigner being in possession of a national visa may enter the Republic of Lithuania and stay in the Republic of Lithuania over the entire period of validity of the national visa, which may not exceed 12 months”⁶. It is stated that the changed provisions give foreigners who have not yet received their residence permit in Lithuania the possibility of free movement – to leave or come to Lithuania. Prior to amendment of the law, such a foreigner could not leave the country and re-enter it without applying for a new visa.⁷
- Amendments to the Law on the Legal Status of Foreigners, which became effective on 1 March 2021, made it easier for foreigners who have completed their studies to find a job and work in Lithuania: they were granted the right to be employed or to start working as self-employed persons, and were exempted from the obligation to obtain a decision from the Employment Service that their type of work meets the needs of the Lithuanian labour market. The period during which a foreigner must apply for a temporary residence permit from the date of receiving a higher education degree has also been extended.⁸ These amendments to the law also provided foreigners studying for a master’s degree, as well as foreigners who have completed their studies and received a temporary residence permit, with the right to work without limiting the working time to 20 hours per week.⁹

Despite the positive changes in the area of ensuring the rights of migrants, the migration policy in Lithuania remains selective. As of 1 September 2019, the conditions for issuing a temporary residence permit have been eased for nationals of Australia, Japan, USA, Canada, New Zealand and South Korea and their family members.¹⁰

And the procedure for issuing visas to these persons has also been simplified as of 21 September 2020.¹¹ Meanwhile, in order to regulate the flow of foreigners coming to work in Lithuania, quotas were introduced on 1 January 2021 for non-EU migrant workers.¹² These quotas mostly affect migrants from Ukraine, Russia and Belarus. By order of the Minister of Social Security and Labour, the quota size for professions with a shortage of workers in the Republic of Lithuania in 2021 was 32,200.¹³ The annual quota set for foreigners coming to the Republic of Lithuania to work as drivers of international freight transport vehicles was reached on 20 May 2021.¹⁴

According to the Migrant Integration Policy Index (MIPEX 2020), the migration and migrant integration policy implemented in Lithuania creates more obstacles than opportunities for integration and is described as “equality on paper”¹⁵. Such view is determined by the fact that, even though non-EU nationals have basic rights and the right to protection in Lithuania, however, due to certain strict naturalization requirements and limited opportunities to participate in the country’s political and civic life, they are not visible and not considered an equal part of the country’s society. Lithuania’s approach to the integration of migrants is similar to that of most Central and Eastern European countries.

On the other hand, there were also positive changes during the discussed period related to the strengthening of integration at the local level. The project “Enhancing the competencies of municipalities in providing services to third-country nationals”, coordinated by the Department of Supervision of Social Services under the Ministry of Social Security and Labour, was launched in mid-2020, the purpose of which is to strengthen the provision of integration services to third-country (non-EU) nationals in the municipalities of Vilnius, Kaunas, Klaipėda, Šiauliai, Jonava and Akmenė districts. Analysis of the needs of municipalities carried out within the framework of the project showed that the policy of integration of foreigners in municipalities is implemented in a fragmented manner, foreigners face obstacles in various life situations, and access to services and information for migrants is limited. However, one of the goals of this project is the preparation of strategic integration plans in municipalities based on research findings and recommendations.¹⁶ More effective aid, support and removal of current obstacles at the local level could improve the situation of some migrants in the country.

In response to the tense situation after the presidential elections in Belarus, a decision was made to apply exceptions as of 11 August 2020 and issue entry permits on humanitarian grounds to nationals of Belarus who became victims of the regime and repressions or persecution, as well as to active representatives of the opposition.¹⁷ This simplified procedure was effective until 21 March 2021.¹⁸

As indicated in the announcement issued by the Ministry of Foreign Affairs, as of August 2020 and with the mediation of the Ministry of Foreign Affairs, 1,612 national D visas were issued to nationals of Belarus under a simplified procedure. And 825 permits to come to Lithuania were also issued by the Ministry of the Interior to nationals of Belarus, permitting them to enter Lithuania for special humanitarian reasons.¹⁹

Although Lithuania has shown its desire to help the people of Belarus by providing easier conditions for them to come and seek employment in Lithuania, experts note that the country is not ready to receive Belarusian nationals.²⁰ Firstly, the requirement to have enough funds to live in the Republic of Lithuania for three months or to prove that permanent income will be received while living in Lithuania can often become an obstacle for Belarusians.²¹ Secondly, although Belarusians arriving with a national visa are issued a work permit faster under a simplified procedure, it is stated that the “absolute majority of them”²², including highly qualified workers²³, face the problem of employment. For example, the requirement for a qualified worker to have a higher education degree and five years of work experience often becomes an obstacle.²⁴ It should also be noted that healthcare, social services or services such as opening a bank account depend on whether a person is working in Lithuania. Therefore, Belarusians who cannot get a job for various reasons have limited access to these services. Belarusian nationals are subject to the same conditions as other non-EU nationals coming to Lithuania, however the circumstances and reasons that forced Belarusians to leave their country of origin lead to additional difficulties and challenges. This is also reflected in the stories of Belarusians themselves who have moved to live in Lithuania.²⁵

Society's attitudes and prevailing stereotypes towards various ethnic groups determine the experiences of migrants, a significant part of whom, depending on their country of origin, migration circumstances and appearance, experience direct and indirect discrimination in various everyday situations, particularly when looking for a job or housing²⁶, as well as often become victims of hate crimes²⁷. A representative survey of public attitudes conducted in 2021²⁸ revealed that the majority of respondents (73%) agreed that Lithuania should accept non-EU nationals coming to study and persons from non-EU countries coming on the basis of family reunification (66%). A significant number of respondents also agreed with the acceptance of Christian war refugees (59%), Belarusian nationals arriving for special humanitarian reasons (58%), and Afghan nationals who helped Lithuanian soldiers, including their family members (54%). Respondents were the least inclined to agree that Lithuania should accept labour migrants from non-EU countries (38%), Muslim refugees fleeing war (26%) and climate change (21%), and non-EU nationals illegally crossing the border of the Republic of Lithuania (8%).²⁹

Migrants were one of the groups particularly affected by international travel restrictions during the COVID-19 pandemic. Limited access to healthcare services, information about these services, and measures to manage the pandemic resulted in greater vulnerability of these individuals due to language barriers and / or their legal status. Due to closure of borders, some migrants who had to renew their documents granting them the right to live in Lithuania during the pandemic found themselves in situations where they simply could not do so, since they had to go to the nearest embassy of their country in Lithuania.³⁰ There were also positive things, such as the fact that foreigners whose period of legal stay in Lithuania ended during the quarantine and who could not leave the country were granted a 2-month tolerance period, i.e. they were not subject to deportation or administrative liability for illegally staying in the country.³¹

As of 19 May 2021, all nationals of foreign countries who have the right to live in Lithuania were given the opportunity to get vaccinated in Lithuania for free. Another positive thing is that information on the country's main official websites regarding measures to combat the pandemic (including vaccinations) and travel restrictions has been translated into Russian and English since the beginning of the pandemic. Nevertheless, there was a lack of targeted communication about the benefits of vaccination and opportunity measures intended for migrants in Lithuania. This is especially relevant considering that these persons often face obstacles in using healthcare services in the country, and information about available vaccinations may not have reached them due to the language barrier. The vaccination certificates of persons vaccinated in a non-EU country were initially not recognized everywhere after the introduction of opportunity passport restrictions, however this situation was later resolved.³²

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Rights of Refugees and Asylum Seekers

Giedrė Blažytė ir Akvilė Kriščiūnaitė

Even though the number of asylum seekers in Lithuania has decreased twofold in 2020 compared to 2019 (646 asylum applications were submitted in 2019, and 321 in 2020), possibly due to circumstances caused by the COVID-19 pandemic, the number of persons granted international protection in the Republic of Lithuania (refugee status or subsidiary protection) has remained similar (international protection was granted to 92 persons in 2019, and to 81 persons in 2020).¹ The majority of people who received international protection were from Russia, Syria, Turkey and Tajikistan. 283 asylum seekers participated in the 2020 integration programmes in municipal territories (228 in 2019).²

The number of asylum applications has increased in 2021 due to the increased flows of irregular migration. According to preliminary data, 3,526 asylum applications were received in the Republic of Lithuania in the second half of 2021. 393 persons were granted asylum (387 – refugee status and 6 – subsidiary protection) during this period.³ In 2021, Lithuania continued the relocation of persons of Lithuanian origin and their family members from Venezuela. According to the data of the Ministry of Foreign Affairs, a total of 74 persons were transferred from Venezuela to Lithuania from August 2020 to the end of 2021.⁴ 179 Afghan translators who have helped Lithuanian soldiers, as well as their family members were transferred to Lithuania in August 2021.⁵ According to the data of the Migration Department, asylum has been granted to all evacuees from Afghanistan.⁶

Most Important Changes before the Crisis on the Lithuania-Belarus Border

The integration of persons granted asylum in Lithuania is carried out pursuant to the Resolution of the Government of Lithuania “On Approval of Description of Procedure for the Integration of Persons Granted Asylum” adopted on 5 October 2016.⁷ To achieve better integration of asylum seekers, amendments to this resolution were approved by the Government on 15 October 2020. The following can be singled out as the key changes to the said resolution: i) the concept of integration of asylum seekers was revised (integration is defined as “the mutual adaptation process of asylum seekers and the host state and society” (Paragraph 2.2)); ii) services will be provided to asylum seekers and their family members by creating an individual plan that would meet their needs (Paragraph 2.5); iii) social support will be provided based on the progress of integration (it would initially be the same for all asylum seekers, and later could either remain the same, if the individual or the entire family shows progress, or could be reduced if there is reluctance to integrate).⁸ Progress will be assessed by taking into account the individual characteristics of the person, according to areas of integration (professional skills and abilities, qualifications; Lithuanian language skills; social skills, etc.).⁹

On 18 February 2021, a resolution was adopted regarding the extension of the Action Plan 2018–2020 on the Integration of Foreigners into Society for a period of one year.¹⁰ This plan is important in that, unlike the previous plan, its target group also includes recipients of international protection. The action plan aims to further improve the implementation of measures for the integration of foreign nationals in Lithuania and ensure their successful integration into society. The action plan for the next period had not yet been prepared at the time this overview was written.

During the period under review, one of the most important changes in the field of ensuring the rights of asylum seekers is related to the amendments to the Law on the Legal Status of Foreigners which entered into force on 1 January 2020.¹¹ These amendments grant asylum seekers the right to work if the Migration Department does not make a decision on the granting of asylum in the Republic of Lithuania through no fault of the asylum seeker within 6 months from the date of submission of the asylum application (Art. 71). Granting asylum seekers the right to work was one of the recommendations of the United Nations Universal Periodic Review for Lithuania.¹²

Response to the Situation on the Lithuania-Belarus Border

In the summer of 2021, Lithuania faced increasing irregular migration at the Lithuania-Belarus border caused by the regime of Aleksandr Lukashenko, which led to the declaration of an extraordinary situation at the beginning of July¹³. From the beginning of 2021 to the end of the year, a total of 4,327 migrants who crossed the border illegally were *de facto* detained, most of whom (2,891 persons) arrived in July 2021, with a quarter of them being minors.¹⁴

Mass Detention

After the adoption of amendments to the Law on the Legal Status of Foreigners on July 13¹⁵, a provision entered into force, establishing that, if the country is in a state of war, a state of emergency, or an extraordinary situation was declared due to a mass influx of foreigners, foreigners who illegally cross the border of the Republic of Lithuania may be *de facto* detained without involvement of the court, regardless if there are vulnerable persons among them, including children and unaccompanied minors. Such *de facto* detention of a foreigner could last up to 6 months. And, if the Seimas votes in favour of the new amendments to the law on 23 December 2021, the freedom of movement of irregular migrants and asylum seekers may be restricted for up to one year.¹⁶ Detaining migrants without an individual court decision is viewed as a gross violation of human rights, while the detention of children in the context of migration and asylum is considered a violation of the UN Convention on the Rights of the Child altogether.^{17,18,19,20}

Conditions in *de facto* Detention Centres for Migrants and Asylum Seekers

During the monitoring carried out on 2-6 and 24-26 of August 2021 and on 15 September 2021 by representatives and experts of the Seimas Ombudsperson's Office²¹, it was established that proper living conditions were not ensured in places of temporary accommodation for foreigners – warm food was not ensured in all of the places of accommodation, and there were not enough dairy products for children; hygiene and privacy were not ensured in sanitary facilities; healthcare services were only provided in case of a medical emergency²²; vulnerable persons lived in conditions that did not meet their special needs; psychological support was not provided, etc.

The report also raises the issue of proper identification of vulnerable persons. It was stated that vulnerability assessment was carried out by visually inspecting and interviewing people, without doing anything else. According to the officers interviewed during the monitoring process, families, young children, pregnant women and persons with disabilities were identified as vulnerable persons, however there was no assessment of the vulnerability because of the potentially experienced violence (torture, coercion, etc.), or belonging to the LGBTQ+ community. And there was no assessment of the vulnerability of those belonging to an ethnic group. For example, SBGS officers were not aware of the group of 8 Yazidis from the Sinjar region of Iraq who were placed to live with other migrants at the Adučiškis border station of the SBGS Vilnius border team.

Cases were also recorded where the safety of foreigners belonging to the LGBTQ+ community was not ensured, since they were placed to live together with other foreigners who are potentially hostile towards members of the LGBTQ+ community due to their beliefs or views.

The report also points out that the safety of women was not ensured in accommodation facilities – showers and toilets installed in container houses were shared by both women and men with showers separated only by curtains, therefore privacy was not ensured; there were also cases where unrelated women and men were accommodated in the same room.

In September 2021, irregular migrants and asylum seekers who were living in tents, facilities provided by municipalities and at border stations were moved to five long-term foreigner registration and refugee

¹³ Resolution of the Minister of the Interior adopted on 6 October 2021 has established that primary, secondary and, if necessary, tertiary healthcare services must be provided to all minors, regardless of whether they have applied for asylum in the Republic of Lithuania or not. More information can be found here: https://vrm.lrv.lt/uploads/vrm/documents/files/LT_versija/Sprendimas%20Nr_%2010V-59.pdf

reception centres in Kybartai, Medininkai, Vilnius (Naujininkai), Pabradė and Rukla. Observers of the Lithuanian Red Cross have stated in their analysis of the change in the accommodation conditions of migrants submitted to the Ministry of the Interior in October 2021 that, although the living conditions of migrants have improved, certain problems still remain, therefore it is recommended to continue improving migrant reception conditions²². From the point of view of representatives of both the Lithuanian Red Cross and other public organizations, the biggest problem during the period under review was the dense accommodation of migrants and asylum seekers, which also leads to other problems, such as failure to ensure proper hygiene conditions or limited movement possibilities in the accommodation areas.²³ Lack of specialists (psychologists, doctors, social workers) and lack of skills to work with asylum seekers and migrants among specialists already working in the centres are also mentioned as worrying problems. Human rights defenders have expressed the greatest concern regarding the accommodation conditions of asylum seekers and migrants living in the former prison in Kybartai (Foreigners' Registration Centre in Kybartai, hereinafter Kybartai FRC), in which certain prison practices are also applied in addition to the aforementioned problems.²⁴

The poor and degrading living conditions in the Kybartai FRC were also pointed out in the report of the Seimas Ombudsperson's Office published on 24 January 2022.²⁵ As observed by the Seimas Ombudsperson, the nature and degree of actual restrictions applied to foreigners housed in Kybartai FRC are equivalent to signs of detention. The report notes that Kybartai FRC does not provide living conditions that would meet appropriate hygiene and privacy standards, and individuals are forced to live in uncertainty about their future due to lack of information and very limited availability of legal aid in foreign languages as well as pressure from officers. Equally worrying is the fact that the needs and safety of vulnerable persons and persons with health problems are not adequately taken into account. The report concludes that the conditions provided to foreign nationals in the Kybartai FRC are equivalent to the prohibited inhuman or degrading treatment under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Asylum Application Processing Procedures and the Right to Appeal

After adoption of amendments to the Law on the Legal Status of Foreigners on 13 July 2021²⁶, the asylum applications of persons entering Lithuania via Belarus were fast-tracked on merits, even if such persons were classified as vulnerable, e.g., unaccompanied minors. In addition, decisions to reject an asylum application had to be appealed within 7 days to the Migration Department, which is the same institution that makes the decision on whether to grant or reject an asylum request. After a second rejection of an asylum application by the Migration Department, this decision could be appealed to the district administrative court within 7 days, however the possibility to appeal the court decision to the Supreme Administrative Court of Lithuania (SACL) was repealed. Such practice was criticized by lawyers²⁷, non-governmental and international organizations²⁸ as failing to guarantee an effective right of appeal. Even though this procedure was revised under subsequent amendments by restoring the possibility to appeal decisions of the district court to the SACL²⁹, the application of very short appeal deadlines continue to hamper the possibilities of effective appeal, particularly given the complexity and specificity of the cases and the fact that the organization of legal aid and translation can take time. In addition, the comments provided by the UN High Commissioner for Refugees point out that appealing the initial decision of the Migration Department to a court does not automatically suspend its enforcement. It was stated that, in such cases, "access to an effective remedy may be limited and the principle of non-refoulement may be violated, especially after the accelerated administrative review, and given the existing problems related to the provision of information, consulting, legal representation and translation/interpretation."³⁰

In their report, the Seimas Ombudsperson³¹ notes that the right of asylum seekers to information about their rights and obligations and the consequences of non-fulfilment thereof during the asylum application examination process, as well as the right to information related to the examination of the asylum application, were not adequately ensured. The attention is drawn in the report to how the interviews of foreigners who submitted asylum applications were carried out. It stated that "only the interviewing officer and the interpreter are allowed to participate in the interview, and legal aid is not ensured, since a lawyer is not involved (except in cases of unaccompanied minors)". In addition, it was stated that foreigners did not know how to appeal against decisions regarding the rejection of asylum.

In a subsequent report of the Seimas Ombudsperson³² it is noted that foreigners living in Kybartai FRC are not sufficiently informed about the legal aid guaranteed to them by the state. Many of them do not know where and how to apply for legal aid and do not have a lawyer representing them. Meanwhile, those who were assigned a lawyer providing state-guaranteed legal aid “complained that they had never once met in person or communicated by phone or other means of communication with the lawyer appointed to them.”³³ It is important to mention that the provision of legal aid to foreigners whose asylum applications were rejected is organized and coordinated by the Migration Department. There were also media reports on poorly executed asylum application processing procedures. One of them has stated, based on the testimony of the person who interviewed the migrants, that “formalities with migrants take less than 20 minutes during which migration caseworkers have to quickly decide whether to register the migrant as “illegal” or as an “asylum seeker”. This decision determines the course of their asylum application, and the outcome often depends solely on the morality of the caseworkers themselves”³⁴. A representative of the Migration Department shared similar experiences, adding that there were talks to abandon individual asylum seeker interviews due to time constraints, and noting that only asylum application rejection templates were provided to employees without distributing any asylum granting forms.³⁵ Non-public decisions on not granting asylum to persons belonging to the LGBTQ+ community that appeared in the media have also received a lot of attention.³⁶

The low number of decisions to grant asylum also raises doubts on whether asylum applications are examined properly. According to the data of Eurostat 2020, 43% of asylum applications of Iraqi nationals, 85% of Syrian nationals, and 59% of Afghan nationals submitted in the European Union were satisfied without an appeal.³⁷ Meanwhile, according to the data of 19 January 2022, asylum in Lithuania was granted to 97 foreigners who have illegally crossed the Lithuania-Belarus border, but was not granted to 3,199 foreigners requesting for it.³⁸ Only 7% of all asylum applications submitted in 2021 were satisfied.

“Return”³⁹ Policy

Due to the increase in the flow of irregular migration, “return” of persons illegally crossing the border was applied as of August 3.⁴⁰ Pursuant to amendments to the Law on the Legal Status of Foreigners, which entered into force on August 12, in the event of declaration of state of war, a state of emergency or an extraordinary situation due to a mass influx of foreigners, persons who wish to apply for asylum in Lithuania and who are unable to stay in the country legally can submit asylum applications only at border checkpoints or transit zones, or in embassies and consular offices of the Republic of Lithuania abroad, however exceptions may be made for vulnerable persons or based on other individual circumstances. For example, after the said procedure came into force, Belarus nationals were accepted in Lithuania for special humanitarian reasons, even though they have entered Lithuania by irregularly crossing the border.⁴¹ If the foreseen procedure is not followed in other cases, asylum applications are usually rejected and persons seeking asylum are not allowed to enter the territory of Lithuania.⁴² This means that such imposed “return” does not guarantee the right to asylum, since asylum applications and their validity are not examined individually, and such practice contradicts Lithuania’s international obligations in the field of human rights, and is not compatible with the UN Convention on the Status of Refugees, EU law and other international documents.⁴³ In addition, the only legal ways to apply for asylum are difficult to achieve in practice. In August-December 2021, only 11 asylum applications were submitted at checkpoints on the Belarus-Lithuania border⁴⁴, and only 5 asylum applications were submitted to the Lithuanian Embassy in Minsk by mid-November 2021.⁴⁵

From the beginning of application of “returns” until the end of 2021, 8.1 thousand migrants were turned away at the Lithuania-Belarus border (including possible repeated “returns”), and the highest number of migrants illegally crossing the border in 2021 was observed in August and November (see diagram 2). However, there is no official data or detailed information on what kind of individuals were “returned”. The State Border Guard Service published the number of “returned” migrants almost every day, however there is no information on the age, gender, state of health or nationality of these people, or how many of them were repeatedly “returned”. Consistent independent monitoring was not carried out due to access restrictions at the border area applied to non-governmental and

international organizations and journalists, therefore it remains unclear whether exceptions were applied to vulnerable persons, i.e. unaccompanied minors, persons with disabilities or persons in need of medical attention, especially bearing in mind that the officers of the State Border Guard Service have admitted that it was sometimes difficult to name the exact number of “returned” persons due to poor visibility.⁴⁶ Families with young children were not treated as vulnerable and therefore were also “turned around”.⁴⁷

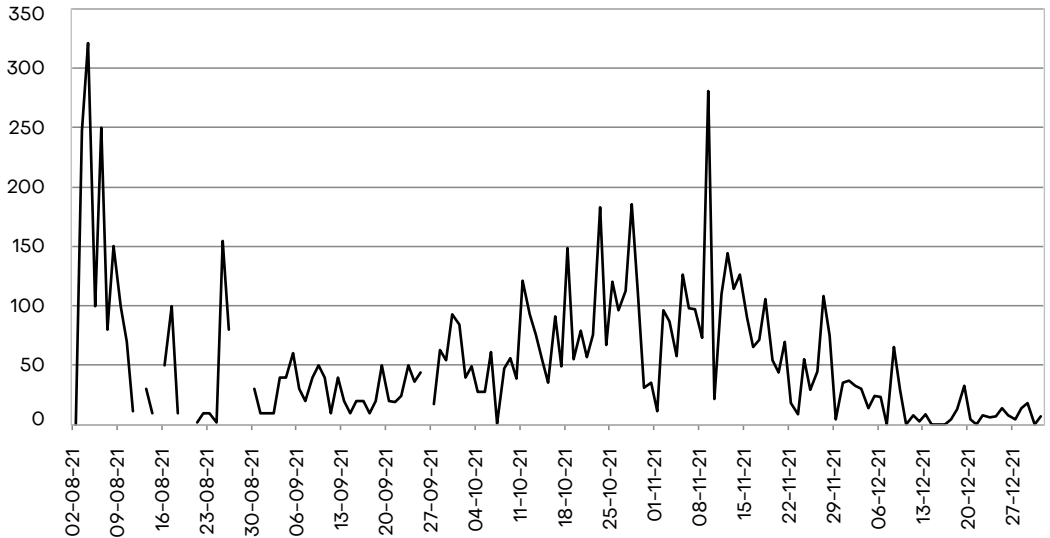


Diagram 2. The number of “returned” migrants according to the data of the State Border Guard Service.*

Due to border access restrictions, only a few “return” cases were covered in detail by the media. For example, five Afghan nationals were returned to Belarus in September 2021, despite the decision of the European Court of Human Rights (ECtHR) to apply interim measures preventing their expulsion, all the same claiming that these persons were not in the territory of Lithuania on the day the said decision was adopted. Although the said persons were eventually allowed to apply for asylum, it was only after representatives of the media covered their detention in Lithuania after the migrants crossed the border again in an unauthorized area.⁴⁸ At the end of November of 2021, 14 migrants, including 6 minors, were found living in tents in the territory of Lithuania. After media articles appeared regarding this case, the migrants were taken to a border station for humanitarian aid, but were later returned to Belarus. Although the State Border Guard Service said that the migrants had decided to return to Belarus voluntarily, one of the migrants claimed that they were not given the opportunity to apply for asylum.⁴⁹

Provision of Humanitarian Aid to Migrants and Access to the Border for Journalists

In August 2021, after the “return” policy instated, access to the border area was restricted for journalists and non-governmental organizations. Although the possibility to apply for permits to access the border area was formally provided for journalists and representatives of non-governmental organizations, obtaining such permits took time, and there were also cases where border guards tried to interfere with the work of journalists.⁵⁰ On September 6, main Lithuanian media outlets appealed to state institutions regarding the risks of such restrictions, urging them to allow journalists to work more freely in the border area.⁵¹

* Note: on some days, the State Border Guard Service provided only approximate data due to poor visibility conditions. And there were days when it was not possible to find information about the number of “returned” persons (08.12, 08.19–08.20, 08.27–29, 09.26). Diagram created by Public Institution Diversity Development Group.

At the end of October, given the worsening weather conditions and the resulting potential risks to the health of migrants, a decision was made to organize the distribution of humanitarian aid packages to migrants who were being “returned”⁵², however such distribution of packages was delegated to officers, and conditions were not created for non-governmental organizations to provide humanitarian aid themselves. According to the representatives of some non-governmental organizations, the distributed packages lacked items necessary for survival, bearing in mind that a person(s) could have been stuck at the Lithuania-Belarus border in particularly harsh weather conditions.⁵³

On November 10, a state of emergency was declared along the entire Lithuania-Belarus border section, at a radius of 5 kilometres near the border, in the facilities of *de facto* detention and accommodation of foreigners, and 200 meters around these facilities. This determined that a ban on going near the border with Belarus came into force for all persons not subject to exemptions due to their place of residence, work or other circumstances, and gatherings of people were restricted in places of *de facto* detention and accommodation of foreigners⁵⁴. It became possible to easily confiscate communication tools from migrants as well as limit their contact with the outside world by restricting the sale of SIM cards and access to SIM card top-ups⁵⁵. Declaration of a state of emergency has further complicated the work of organizations providing humanitarian aid to migrants at the border. Journalists were initially banned from working closer than one kilometre from the border, but were later allowed to work within 100 meters⁵⁶.

It is very worrying that in 2021 some representatives of state institutions widened the gap between the discourses of human rights and state security, while organizations defending human rights⁵⁷ and/or providing humanitarian aid⁵⁸ were criticized as possibly acting against the interests of the state. During the discussed period, the State Border Guard Service launched two pre-trial investigations against persons who provided humanitarian aid due to alleged illegal transportation of migrants. In the first case, the pre-trial investigation was terminated after it was clarified that the Lithuanians who allowed 5 Afghan nationals to stay in a homestead near the border of Belarus did not actively attempt to hide the migrants and acted without receiving any remuneration.⁵⁹ However, the very next day, a new pre-trial investigation was launched regarding a similar case.⁶⁰ During this period, administrative fines of 100 euros were also imposed on persons who provided humanitarian aid to a migrant who was unable to walk in the territory where he did not have permission to be.⁶¹

Response of the International Community

Lithuania's response to increased migration flows at the Lithuania-Belarus border has received criticism from international organizations. Due to mass *de facto* detention of migrants and asylum seekers, Lithuania was criticized by the UN Committee against Torture (CAT)⁶², and due to the practice of detention, processing of asylum cases and “returns” – by the United Nations High Commissioner for Refugees (UNHCR)⁶³, the Council of Europe Commissioner for Human Rights Dunja Mijatović⁶⁴, and the European Council on Refugees and Exiles (ECRE)⁶⁵. The Fundamental Rights Office of the European Border and Coast Guard Agency “Frontex” appealed to Lithuania regarding its violations of the right to asylum, including “returns”, and presented its recommendations.⁶⁶

Public Attitudes and the Media

The data of a representative population survey conducted in 2021⁶⁷ reveals that, compared to 2020, the social distance of the Lithuanian population in relation to the refugee group has increased noticeably in terms of living in the same neighbourhood, working in the same workplace and leasing housing. A larger percentage of surveyed participants also tended to see the negative rather than the positive impact of these individuals on the society and the state. As many as 85% of respondents were inclined to agree with the statement that refugees can increase the level of crime in Lithuania, 82% believed that refugees could cause social unrest, and only 14% of respondents were inclined to agree with the statement that refugees enrich the cultural life of Lithuania. On the other hand, it is important to note that about 39% of respondents were inclined to agree that the state should pay more attention to the integration of refugees living in and coming to Lithuania, and more than a third (33%) of respondents agreed that refugees are a vulnerable group of people, therefore Lithuania must help them.

It can be assumed that the migration situation at the Lithuania–Belarus border and the narrative of migration in the public sphere as a threat to national security and the social and economic life of the country had an impact on such changes in the attitudes of the Lithuanian population. The survey has revealed that the opinions of Lithuanians regarding various groups of migrants (including asylum seekers and those granted asylum) are formed not by personal experiences, but by various media outlets (see diagram 3).

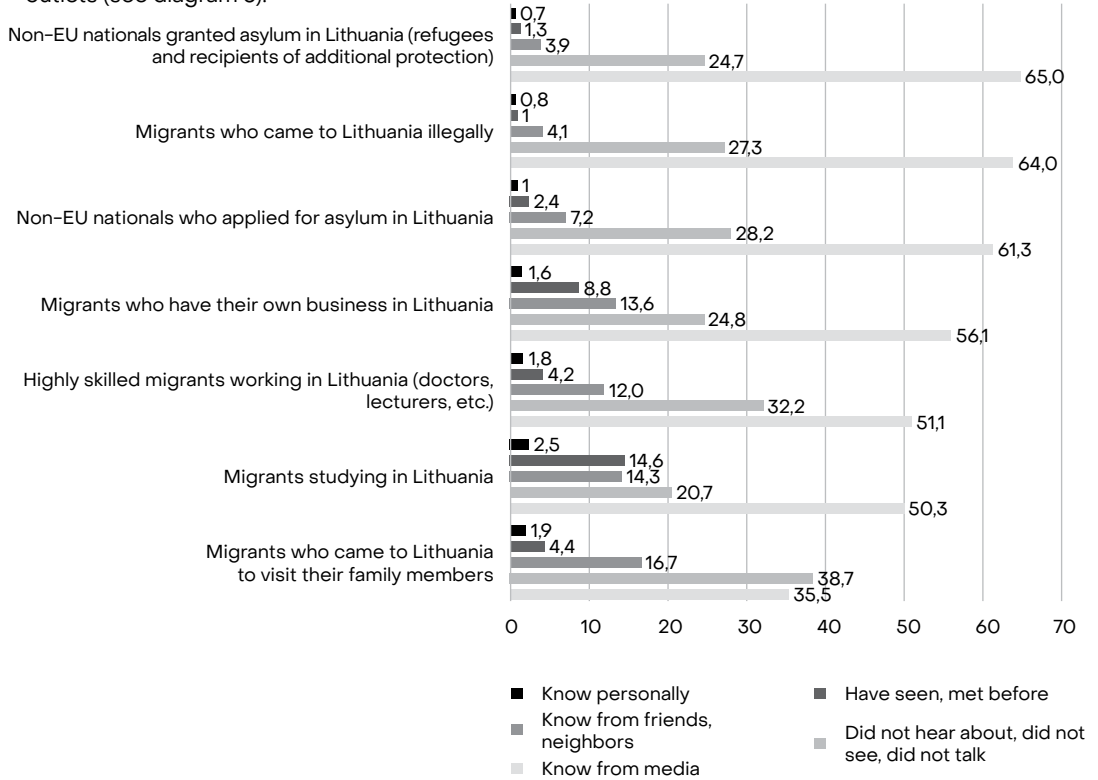
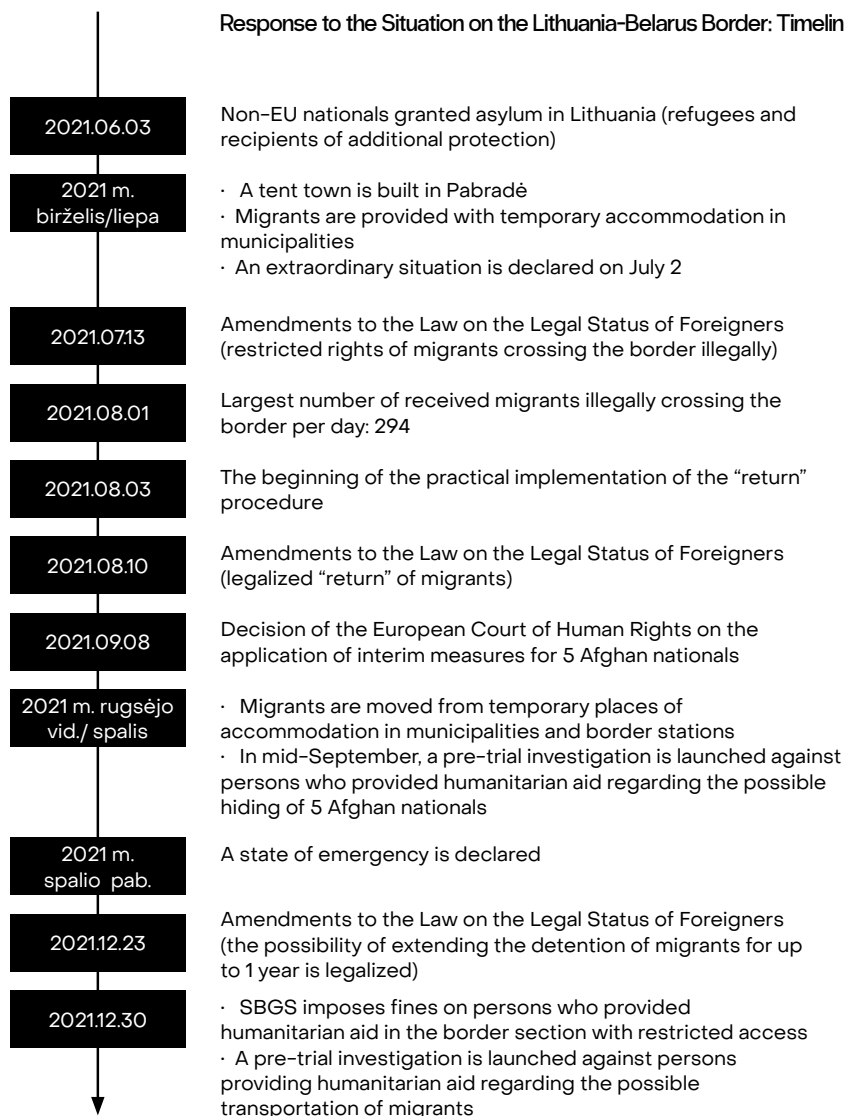


Diagram 3. Have you heard about, seen or talked with persons from countries outside the European Union over the past 12 months? (2021, %)

The importance of communication about different groups of migrants in the public sphere is also shown by the results of media monitoring carried out by Media4change.⁶⁸ The study reveals that, in the summer of 2021, there were clear elements of inciting public panic in the works of journalists: “reports of detention of migrants dominated the media, including the use of anti-migrant phrases from politicians, while migrants themselves were rarely given a voice”⁶⁹. It should also be noted that “journalists usually interview politicians and officers of the State Border Guard Service on the topic of migration. In June, politicians were quoted in 40% of publications, and officers working at the border in 16% of publications on the topic of migration. The positions of human rights experts and representatives of non-governmental organizations are rarely heard in this context”⁷⁰.

Response to the Situation on the Lithuania-Belarus Border: Timeline



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Right to Health

12

Right to Health

Dainius Pūras, Marija Jakubauskienė

The 2020–2021 period is strongly marked by the COVID–19 pandemic. After hitting the world as well as Lithuania at the beginning of 2020, it forced countries and societies to solve complex problems of controlling the pandemic. During the pandemic, it was particularly important than ever before to consistently implement principles recognized by the scientific and the human rights communities which would effectively protect and strengthen public health. Firstly, decisions had to be made based on health–related and other scientific knowledge. Secondly, these decisions had to be based on human rights.¹

The right to health can only be effectively implemented when all human rights are consistently protected, not just the right to health itself. For example, if the economic and social rights of a society or a significant part of it are violated, poverty and social inequality will have a negative impact on the physical and mental health of people. On the other hand, if political and civil rights and freedoms are not ensured, opportunities for a civil society to be active decrease and certain vulnerable groups are discriminated against, all of which have a negative impact on public health in the long term, especially on the mental health of the society as well as separate individuals.²

Similar to institutions around the world, public institutions in Lithuania had to overcome a very difficult task of implementing the right to health during the COVID–19 pandemic. On the one hand, certain restrictions affecting the rights and freedoms of people had to be imposed to protect their health and life during the pandemic. These restrictions do not conflict with international law, as long as they are lawful and proportionate.³ On the other hand, if restrictions are applied in a way that is excessive and contrary to scientific knowledge, this can harm the economic and social development of the state, as well as have a negative impact on public health.

Control of the COVID–19 Pandemic in Lithuania

Control of the pandemic in Lithuania took place at a time when the old Government was replaced by a new Government^{4,5}. The Ministry of Health was the lead institution responsible for the national organization of measures to control the COVID–19 pandemic. By September 2020, the Government has allocated 2.76 billion euros for the response to the COVID–19 pandemic, and over 1 billion euros in 2021.⁶

Application of COVID–19 pandemic control measures was continuous, however these measures were somewhat different from each other. Experts have noted that, both before the 2020 Seimas elections and after them, when the new Government of Lithuania was formed, there was a lot of inconsistency in government decisions.

In a legal and technical sense, the control of the pandemic can be divided into two stages – 1st quarantine (from 16 March 2020 until 30 June 2020) and 2nd quarantine (from 7 November 2020 until 30 June 2021). The XVII Government which was headed by Prime Minister Saulius Skvernelis (during the first and part of the second quarantine) declared a state–level emergency situation, provided for restrictions on crossing the state border, restricted movement across municipalities, established isolation requirements, and imposed restrictions on economic activities (e.g., prohibition of providing services in public catering establishments, prohibition of public events and gatherings, mandatory wearing of face masks both indoors and outdoors, limited social contacts, remote learning in educational institutions). In the context of pandemic control measures, there were dramatic changes in the provision of healthcare services – provision of planned healthcare services was completely stopped, remote consultations were introduced, implementation of preventive programmes (e.g., cancer prevention) was stopped, and other measures were applied that limited the availability of services.⁷

As in other European Union (EU) countries, registered mortality rates in Lithuania were 25% higher than normal (excess mortality) during the period of the COVID-19 pandemic in 2020–2021, compared to the pre-pandemic period in 2016–2019. During the 1st quarantine in Lithuania, the number of deaths caused by COVID-19 reached 1–36 deaths per day, and the excess mortality rate reached 1–4% (the excess mortality rate in EU countries was 13–25% in March–April 2020).⁸ The implementation of applied quarantine measures was essentially based on the knowledge of epidemiology, public health and biomedical sciences. Nevertheless, the measures applied to control this pandemic were very strict, given that the COVID-19 morbidity and mortality rates among the population of Lithuania were relatively low during this period, compared to other EU countries, and did not increase the burden on the healthcare system, especially in terms of hospitals.

Part of the applied pandemic control measures remained in place after the elections of the XVIII Government, led by Prime Minister Ingrida Šimonytė. However, the spectrum of quarantine measures and the scope of their application has decreased, and additional, more political pandemic control measures were introduced next to those that were already in place during the second year of the pandemic.

Among the political pandemic control measures was the implementation of the opportunity passport, the application of which was not based on epidemiological science, and the scientific impact of which was not clear.^{9,10,11,12} The opportunity passport issued to those who have tested negative for SARS-CoV-2, recovered from the infection and had antibodies, and those who have been vaccinated against SARS-CoV-2¹³ sought to ensure safety in the international travel sector and a safe return to social activities, as well as to encourage people to get vaccinated against the coronavirus. However, the opportunity passport has also had a harmful effect, falsely creating the illusion that the holder of the opportunity passport no longer posed any risk of spreading the virus.¹⁴ There were divided opinions regarding the social impact of restrictions, which caused significant hostility among some groups in society.¹⁵

Pandemic control measures were not as strict during the 2nd quarantine – focus was placed on limiting contacts and wearing masks indoors, however movement restrictions between municipalities were not applied and contact healthcare services were provided. However, the number of cases and mortality of COVID-19 was significantly higher during the 2nd quarantine, as evidenced by higher excess mortality rates, which were often higher than the overall EU average per month: in December 2020, excess mortality in Lithuania reached 70% (30% in EU countries), and 28.7% in January 2021 (17.4% in EU). Excess mortality in September–October 2021 was almost twice as high as the EU average, and, although it decreased slightly in November–December, it still remained higher than the EU average.^{16,17} The causes of excess deaths can be essentially two-fold: caused by the COVID-19 infection itself or caused by measures to control the COVID-19 pandemic, which resulted in delayed cases, untimely (delayed) assistance, or failure to provide healthcare services. In 2020, the increased mortality rates during the pandemic led to the fact that, compared to 2019, life expectancy in Lithuania was temporarily shortened by as much as 1.4 years.¹⁸

During the pandemic caused by the coronavirus, scientists did not always see eye to eye regarding the proportionality of restrictions, therefore public authorities both in Lithuania and in other countries of the world often made decisions that were based on political reasons instead of scientific knowledge.

The dissonance between the epidemiological situation caused by COVID-19 and the applied pandemic control measures reflects several things. First of all, the control of the pandemic was based on different value and scientific proof interpretation paradigms. Basically, the approach to the control of the COVID-19 pandemic in the world and in Lithuania has divided doctors, epidemiologists, politicians and members of the public into at least two camps. One of them relied on the Barrington Declaration (2020), where pandemic control measures are based on the principle of protection of target risk groups, however mass wearing of masks, testing, tracing contacts, physical distancing and mass vaccination were criticized.¹⁹ The second paradigm is supported by epidemiologists, doctors and politicians who signed the John Snow Memorandum and agree to the declaration of quarantine, isolation and testing of people coming to the country, contact tracing and isolation of infected people, as well as the mass vaccination of the population and mass wearing of face masks indoors (applied even to vaccinated persons), without rushing back to contact learning in educational

institutions until teenagers are vaccinated and until adequate ventilation systems are in place.²⁰ Restrictions are applied to the entire population as a means of controlling the rapid spread of the virus, reducing mortality, and preventing the paralysis of healthcare services, which would help to buy time and enable the formation of an effective strategy for controlling the pandemic.²¹

Effects of Pandemic Control Measures

Most countries around the world have learned to control the pandemic during the first quarantine, and were preparing for the second wave of the pandemic and the second quarantine. Countries that failed to adequately prepare for the second wave of the pandemic faced alarming increases in morbidity and mortality rates from the COVID-19 disease. In such cases, scientific evidence-based measures were replaced by political measures and the 'opportunity passport' which was introduced as another measure to control the pandemic. The long-term quarantine had negative social effects, as well as an impact on the physical and mental health of the society, and on the economy. These effects were most pronounced in countries that did not use the first quarantine period to properly prepare for further stages of controlling the pandemic.

The COVID-19 pandemic has exposed the public health crisis not only as a health crisis of the population, but also as a health policy and institutional crisis, which first of all manifested as distrust in state institutions, lack of experts and increased cases of avoidable excess mortality.

Vulnerable Groups in Society

The impact of the pandemic and associated restrictions has hit vulnerable groups of society the hardest, exacerbating social inequalities in health – people faced a higher risk of contracting the coronavirus infection and dying from it, with less opportunities to receive appropriate help. As in other countries, the most vulnerable groups of society in Lithuania appeared to be young people, especially teenagers, as well as women, healthcare workers, migrants and refugees, the elderly, people with chronic health conditions, including people with mental health difficulties and disorders, and people in institutional care and under guardianship (persons in supportive treatment and nursing hospitals, and those living in social care institutions).^{22,23,24}

A Crisis of Distrust in Public Authorities

The COVID-19 pandemic has become a test of maturity of the actions and decisions of governments. During the pandemic, both governments (headed by S. Skvernelis and then I. Šimonytė) had to assume the main role in preparing and implementing pandemic control measures. The success of implementation of pandemic control measures largely depends on the behaviour of the public – how the people view the implemented health and social policies and how they comply with the applied measures, restrictions or vaccination recommendations. Mutual trust facilitates cooperation between the citizens and the government in solving relevant health, social or economic issues, and becomes a very significant factor determining the success of controlling the COVID-19 pandemic.²⁵ Trust in public authorities results from telling the truth and consistently fulfilling assumed obligations and concluded agreements. Public trust in the said authorities is considered an indicator of public administration performance, reflecting the effectiveness of democracy in the country.²⁶

A crisis of public trust in state institutions has emerged in Lithuania during the COVID-19 pandemic. Trust in the government, which is responsible for solving the most important issues in the lives of the country's population, was only 41% in Lithuania during the peak of the 2020 coronavirus pandemic. For comparison, confidence levels were at 51% in other member countries of the Organisation for Economic Co-operation and Development (OECD). However, it should be noted that the level of trust in the government of Lithuania increased by 14% between 2007 and 2020, because in 2007 only every third person living in the country trusted its government.²⁷ Trust in the healthcare system in 2021 averaged at 70% in OECD countries.²⁸

In Lithuania, the relatively low level of trust in public authorities essentially also reflects the leadership

crisis and poor communication readiness to control emergency situations. However, the majority of the country's population during the period under review were critical of the work of the Government or the Ministry of Health as institutions that can assume responsibility and leadership during the pandemic.

Poor trust in public authorities also had an impact on the pandemic control strategy. As the Government took actions to control the COVID-19 pandemic, advisory groups of independent experts were used, which were parallel structures in the existing healthcare system. The President has formed the Health Experts' Council for Controlling the COVID-19 Pandemic, the purpose of which was to "search for answers to the most important questions related to the management of the pandemic and the protection of human health" in the areas of situation analysis and forecasting (1), public health measures (2), and organization of work of healthcare institutions (3).²⁹

The Government has established an Advisory Council of Independent Experts for providing recommendations on how to control the COVID-19 virus.³⁰ Politicians relied on the recommendations of these expert groups when choosing appropriate pandemic control measures. This practice essentially demonstrates a lack of trust in the already existing structures of the health protection sector, by questioning their competence and abilities to manage the crisis caused by the pandemic, specifically the National Health Council under the Seimas of the Republic of Lithuania, the National Public Health Centre, the Health Emergency Situations Centre, and other public institutions. The key experts who participated in all the advisory groups were mainly medical practitioners, as well as scientists and representatives of the industrial sector, businesses and trade unions. However, the majority of experts in both groups were representatives of biomedical sciences, while the participation of representatives of social sciences was insufficient. In addition to medical knowledge and logistical expertise, sociological expertise is also really important, since it can provide critical insights into social processes and social behaviour, as well as reveal the impact of pandemic control measures on different groups of society, by protecting the most vulnerable groups. However, such expert knowledge was not used in the planning of pandemic control measures. This could be one of the lessons worth learning to better prepare for any other pandemic or emergency situation.

As in other countries, in addition to the public health crisis, the uncertainty caused by the COVID-19 pandemic has revealed and exacerbated the long-known flaws in the healthcare of Lithuania, particularly related to the management of the healthcare system, the availability and inequalities of healthcare services, especially among vulnerable persons, and the management of healthcare institutions. The inpatient care resources available in Lithuania made it possible to redistribute resources and use hospital beds as well as meet the suddenly increased healthcare needs during the COVID-19 pandemic, however this has severely limited the provision of services unrelated to COVID-19.³¹

The COVID-19 pandemic has acted as a test to measure the resilience of the healthcare system to crisis situations, its flexibility and sustainability in crisis conditions, and capabilities to restore pre-pandemic healthcare service delivery flows that were not addressed. Lack of sustainability of the healthcare system during the pandemic affected vulnerable persons and regions the most and highlighted the existing social inequalities in healthcare. On the other hand, the pandemic has created opportunities to identify chronic flaws and inequities in the healthcare system more openly than ever before, and to implement systemic, long-delayed changes, however these opportunities have not been properly used.

Mental Health

The period under review was also special in that two Governments had to make decisions during this difficult period. After the success of the Homeland Union – Lithuanian Christian Democrats and two liberal parties (Liberal Movement and Freedom Party) during the 2020 Seimas elections, they have formed the ruling majority and assumed the leadership of the Government at the end of 2020. Particular attention in the Government's Programme and Action Plan was paid to mental health. It is also very important to note that it was acknowledged, perhaps for the first time, that the Lithuanian mental health system requires not only greater financial and human resources, but also fundamental changes in the system itself. The programme envisages focusing on human rights issues in mental

health care, as well as developing new types of services.³²

One of the five strategic tasks of the Minister of Health in the Government's Action Plan was to increase mental health literacy and diversity of services. This is an obvious commitment that illustrates the emergence of political will. The same Government document detailed the measures and actions that will be taken to achieve a breakthrough in the field of mental health:

- Creation and legal regulation of a model for assessing and monitoring the compliance of services provided by mental healthcare institutions with the human rights standards, provision of methodological support, and implementation of the said model.
- Updating of the National Suicide Prevention Action Plan for 2020–2024, implementation of measures for the provision of psychosocial support to persons at risk of suicide, and early identification of such persons.
- Preparation and approval of an action plan for strengthening mental health and increasing public literacy in the field of mental health, and implementation of measures for empowering communities, promoting mutual support, and conducting a long-term public communication campaign.
- Preparation and implementation of measures for addiction prevention, treatment and continuous provision of psychosocial support to addicted persons by focusing on the needs of the individual, as well as ensuring the diversity, scope and quality of the services.
- Implementation of new and improvement of existing community-level mental health services, by ensuring their quality and availability throughout Lithuania, and by filling the gaps between the primary healthcare chain and inpatient facilities.

Building Public Mental Health Resilience During the COVID-19 Pandemic

With the emergence and continuation of the pandemic, it soon became evident that both the pandemic and the measures taken to contain it were having a profound effect on the mental health of society and individuals. To reduce the long-term negative effects of the pandemic on mental health, the Government has initiated a set of measures, including the introduction of psychosocial interventions and increasing the availability of non-drug mental health services. It is therefore no coincidence that special and professional attention is paid to mental health in the XVIII Government Programme.

In the first half of 2021, the Government and the Ministry of Health have initiated the implementation of additional measures in the field of mental healthcare, by preparing an action plan to reduce the long-term mental health consequences of COVID-19. In addition, efforts were made to increase the availability of mental health support services during the COVID-19 pandemic by providing an additional free emotional support line (number – 1809) and implementing pilot projects regarding mobile crisis response teams in 2020. Since 2020, municipal public health offices have started providing free mental health support services which residents can receive without a referral.³³ In addition, a self-help website initiated by the Ministry of Health was launched at www.pagalbasau.lt/covid-19.

In the context of the pandemic, there were renewed and intensified debates between experts who have different views on the strategy and tactics of investing in the mental health system. Mental Health 2030, a coalition of independent experts and non-governmental organizations established in Lithuania, made proposals on how to prepare for not only cosmetic but also systemic changes, by implementing a mental health policy and abandoning the current outdated model. The coalition, led by the Human Rights Monitoring Institute, expressed its position that “Lithuania needs a breakthrough that would include all the components of the mental health policy, from effective prevention to institutional care and abandoning of excessive medicalization”³⁴. Meanwhile, the Lithuanian Psychiatric Association took a different position and spoke critically about the development of certain new mental health measures and services, especially those that create an alternative to biomedical interventions.³⁵

In order to create a more mature discourse and open opportunities to develop effective services in Lithuania that would not violate human rights, under the auspices of Speaker of the Seimas Viktorija Čmilytė-Nielsen, the Mental Health 2030 coalition organized two events where it presented its arguments for the necessity of systemic changes. Decision-making politicians were reminded that

services recommended by international organizations are not provided in Lithuania. The position of the Mental Health 2030 coalition, which presents current global trends to Lithuanian politicians and other participants in the health system, was such that the creation and development of innovative services require a fundamental breakthrough instead of cosmetic changes. This means that green light must be given for new initiatives, and service infrastructure as well as service providers must be diversified instead of simply allocating additional funds to the established three chains of the mental health system (primary-level mental health centres, psychiatric inpatient hospitals and long-term care facilities), as was done previously.

These initiatives in Lithuania reflect global changes. In 2017–2020, a number of strategic documents and studies appeared at the international level, increasingly criticizing the established biomedical model in handling mental health problems, and calling on countries to carry out paradigm-level changes by prioritizing the consistent implementation of the United Nations Convention on the Rights of Persons with Disabilities and the development of the social model.³⁶

A new strategic document of the World Health Organization was published in the first half of 2021, which could be a solid boost toward the ideological and structural modernization of the Lithuanian mental health system. This document (WHO guidance on community mental health services) unequivocally recommends to move away from the dependency of the model of services characterized by institutional care, excessive use of biomedical interventions and restrains violating human rights. It is recommended to allocate more resources to the development of services which are based on modern human rights principles, which no longer apply or apply less measures that violate human rights, autonomy and dignity, which significantly reduce the traditional asymmetry of power between different participants in the mental health system and which particularly emphasize the importance of developing effective psychosocial services in the community.³⁷

The Right to Mental Health During the COVID-19 Pandemic

The study “The Right to Mental Health and Ensuring the Rights of Persons with Psychosocial Disabilities in Lithuania” conducted by the non-governmental organizations Mental Health Perspectives and the Human Rights Monitoring Institute revealed a lot of important information about the right of Lithuanians to receive mental healthcare services in Lithuania during the COVID-19 pandemic.^{38, 39} The authors of the study presented a number of recommendations that are important not only in the context of the pandemic and restrictions applied in 2020–2021. These recommendations signal the need to fundamentally reorganize the Lithuanian mental health system so that it would be effective in all cases – when preparing for, during and after crisis situations, as well as during other periods.

The study analyses the impact of restrictions imposed in early 2020 due to the COVID-19 pandemic on the rights of people, their mental health and the provision of mental health services. The study has revealed more vulnerable groups of society, which are also identified in other countries.

Based on various international studies on the impact of the pandemic, that were carried out to date, several groups can be distinguished that have become particularly vulnerable:

Women – they were more likely to suffer from the restrictions of the pandemic due to the obvious financial impact, difficulties in balancing the responsibilities of caring for children or other family members and work, and due to gender-based violence, especially domestic violence^{40, 41}.

The elderly – in addition to their obvious vulnerability to the virus due to poorer physical health, older people have also suffered from severely limited access to routine healthcare services.⁴² In addition, their mental health was particularly strongly affected by social isolation due to poorer access to various remote communication platforms.⁴³ Statistical data of the “Silver Line”, which provides emotional support in Lithuania, shows that twice as many calls were received during the quarantine in the winter of 2020, compared to the number of calls in the winter of 2019.⁴⁴ In addition, during the quarantine, some of the elderly lived in social care homes that did not meet the epidemiological requirements, these homes often becoming sources of infection where a significant number of deaths were recorded.⁴⁵

Younger people. During the first quarantine, the indicators of loneliness, insomnia, anxiety and suicidality have increased the most among people aged 15–24 both in Lithuania and in other European countries.^{46,47} Young people were no longer able to live an active social life. Structured activities, such as education, work or hobbies, have shifted to a remote form or could no longer be carried out at all. Such sudden and major lifestyle changes and resulting social isolation have caused the said emotional difficulties.⁴⁸ The lives of younger people are also less sedentary and less financially stable, therefore they reacted particularly sensitively to the financial difficulties caused by the quarantine and to the lingering uncertainty about the future.⁴⁹

Employees of healthcare institutions. In addition to the fear or stress of frequent contact with people infected with COVID-19, nurses and doctors had to face a number of other factors that cause physical and emotional fatigue. Huge workloads, strict safety requirements and poor provision of safety measures negatively affected the quality of services and the emotional and moral well-being of employees.^{50,51} Employees also complained of poor sleep quality, which is strongly associated with anxiety, stress and poor well-being.⁵²

People with disabilities. The pandemic has highlighted the existing problems of ensuring the rights of people with disabilities.⁵³ Dissemination of information about rapidly changing restrictions during quarantine and their presentation to people with disabilities was not adequate. These aspects increase the exclusion of people with mental health disorders or psychosocial disabilities and limit their right to be active members of society. Furthermore, during the first wave of the pandemic, independently living people with psychosocial disabilities were completely cut off from social services for several months.⁵⁴ There were cases where assistance, care and nursing fell completely on the shoulders of relatives. The right of people to get the help that they need was limited, which caused a lot of anxiety, feelings of helplessness, anger and financial losses. Many people with psychosocial disabilities living in social care homes had to stay there during the entire quarantine period, without the possibility to go home or see their families. As mentioned earlier, some social care homes that did not meet the epidemiological requirements became sources of infection that have claimed many lives.⁵⁵ In addition, the number of employees has dropped due to the spread of the infection, which negatively affected the quality of services.

Impact on the Mental Health of the Population

The COVID-19 pandemic is described as an emergency situation that has created significant feelings of uncertainty and insecurity, to which people have essentially responded very naturally – with increased anxiety, worry and a greater need for psychosocial support or assistance. People's concern about their own mental health and that of their loved ones has increased. The impact of the pandemic on public mental health was reflected in increased levels of anxiety, insomnia, and depression, however there is still no reliable data to show the long-term epidemiological dynamics of a substantial increase in the number of mental health and behavioural disorders. Such a situation should not lead to an increased need for medication or inpatient treatment if the mental health system was prepared to respond effectively and did not traditionally regress in the usual way – excessive drug treatment, admission to psychiatric hospitals and institutional care.

According to sociological research, the general level of public stress in Lithuania has doubled compared to the period before the pandemic (14% of the population felt stress before the pandemic and 26–48% felt stress at the start of it), and feelings of anxiety, anger, and sadness have increased by about 1.5 times.⁵⁶ A survey conducted by the Ministry of Health in February 2021 has revealed that the emotional state of half (49%) of the respondents worsened during the second wave of COVID-19 (since September 2020), compared to the summer period of 2020 (worsened significantly for 13%, and worsened somewhat for 36%).⁵⁷

According to the survey conducted in October 2020, about 31% of adult Lithuanians who took part in the survey have claimed to have experienced depression and anxiety, 25% had adaptation difficulties, and 46% indicated that their level of psychological well-being has decreased during the first year of the pandemic.⁵⁸ A representative study of the mental health of the population of Lithuania conducted in 2021 has revealed that 48% of the country's population experienced anxiety, 31% were at risk of depression, and 20% had suicidal thoughts.⁵⁹

However, it should be noted that society has made considerable progress in the field of mental health.⁶⁰ The suicide rate in Lithuania has decreased almost twofold over the past 30 years – in 2020 it was 21.7 suicides per 100 thousand people, compared to 44.2 per 100 thousand people in 2001. The overall number of suicides did not increase during the COVID-19 pandemic (658 suicides were registered in 2019, 607 in 2020, and 561 in 2021) (Figure 1)⁶¹, however suicide prevention remains one of the most important public mental health issues, since the number of such deaths per year is 607 (2020) and remains twice as high as in Western European countries.

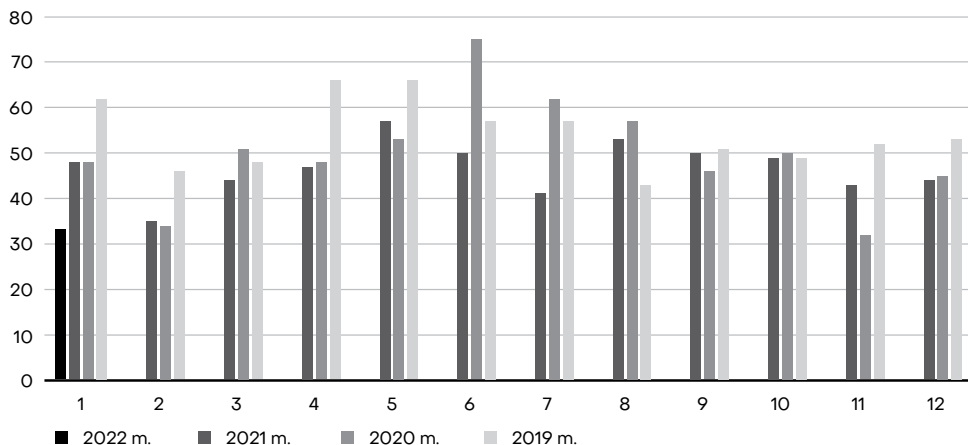


Figure 1. Number of suicides in Lithuania from 2019 to January of 2022

Year	January	February	March	April	May	June	July	August	September	October	November	December
2022 m.	33											
2021 m.	48	35	44	47	57	50	41	53	50	49	43	44
2020 m.	48	34	51	48	53	75	62	57	46	50	32	45
2019 m.	62	46	48	66	66	57	57	43	51	49	52	53

Mental Health of Children and Adolescents

In the context of the COVID-19 pandemic, particular attention was paid to new risk factors which have negatively affected the mental health, as well as the emotional and social development of children. UNICEF has dedicated its annual report for 2021 specifically to the mental health of children. Children faced additional threats after schools were closed due to the pandemic – their psychosocial stress has increased, which became toxic stress due to the prolonged application of quarantine measures. The risk of violence against children has also increased. Children were deprived of vital services and a significant number of them faced mental health difficulties which mostly affected children living in families at risk of poverty and at social risk.⁶²

The health of children, adolescents and young people, and especially their mental health, has been affected by socialization restrictions imposed during the quarantine and distance learning in educational institutions, which has led to a significant increase in the use of technologies during the quarantine. Studies conducted in Lithuania on children aged 6–14 show that children’s desire to learn has decreased and children’s behaviour as well as their emotional state has worsened during the first quarantine. In addition to worsening learning results and behaviour, the desire of children to learn has decreased twofold and their emotional state has deteriorated during the second quarantine. In 2021, children spent an average of 6–8.5 hours per day in front of screens.⁶³ About 30% of children and adolescents aged 7–14 had clinical-level emotional and behavioural problems.⁶⁴ Compared to many

other European countries, the quarantine probably lasted the longest in Lithuania. It can be seen that distance education, which was extended for too long, as well as restrictions imposed on non-formal education and deteriorated social relationships between children in 2020–2021 have disrupted the mental health and emotional development of these children. These worrying short-term effects of the pandemic may have a long-term negative impact on the mental health of children and youth in the future. Scientists of the Institute of Psychology of Vilnius University and non-governmental organizations appealed to the Government, committees of the Seimas and other authorities, asking them to include issues related to the mental and physical health and education of children to the Government's list of priorities, to allow children to go back to schools, and to protect children and young people from hidden threats which affect their mental health in the digital space.⁶⁵

Support for Autistic People

There are many systemic problems in the field of mental health related to the abundance of different mental health characteristics and disorders and the need to flexibly adapt to meet the individual needs of affected children and adults as well as to protect their rights. One of the most difficult challenges for Lithuania, its public authorities and the society is the social situation of people on the autism spectrum. A lot of work still needs to be done to empower these children and adults, to properly integrate them into society and to eliminate the still ongoing discrimination against them.

In 2020, three ministers (Minister of Health, Minister of Education and Minister of Social Security and Labour) approved the 2021–2024 Action Plan for Providing Support to Persons Diagnosed with Multiple Complex Developmental Disorder intended to strengthen the early diagnosis of multiple complex developmental disorders (1), create institutional prerequisites for the inclusion of persons with multiple complex developmental disorders (2), ensure high-quality access to healthcare, social and educational services (3), provide the necessary competencies to specialists providing healthcare, social and educational services (4), and ensure that parents raising a child with a multiple complex developmental disorder receive training and psychological support (5).⁶⁶ The implementation of this plan poses a number of systemic challenges.

Studies conducted in Lithuania in 2021 reveal that 1/3 of children diagnosed with autism spectrum disorder (ASD) did not receive the complex personal healthcare services that they needed in the last 12 months due to long queues and lack of long-term monitoring. 1 out of 10 children received no help at all in educational institutions. 1/3 of parents raising children with ASD who participated in the study have stated that there are no necessary services in the area that they live. More than half of the parents revealed that their children attended paid services. About 40% of parents spent between 200 to 400 euros per month on their child's therapy and education, and 1/2 of parents have indicated that they had faced financial difficulties when paying for such services. The quality of the provided services is also insufficient – only 1/10 of parents were satisfied with the services that they received, there was a lack of service coordination, and the empathy of specialists as well as the involvement of parents in childcare were rarely evaluated favourably. Primary healthcare specialists rarely suspected ASD in a child, while parents themselves rated the competencies of such specialists rarely working with children with ASD as the lowest among all other specialists.⁶⁷

Lithuania still does not have a developed support system for autistic adults. Another important challenge specific to Lithuania is the absence of a clear and well-functioning system for diagnosing adults. Some autistic individuals who were not diagnosed in childhood do not know that the challenges they experience may be explained by autism. They are often diagnosed with secondary disorders or even misdiagnosed, and those who suspect that they might be autistic often do not receive support from mental healthcare professionals due to persistent misconceptions about autism. At least three main things should be taken into account to change the current situation – ensuring the availability of services, increasing public understanding of autism and improving adaptation of the environment and other conditions.⁶⁸

Other Mental Health Challenges

In 2021, Lithuania faced an influx of migrants – approx. 4,400 illegal migrants came to the country since January, of which 31% were aged 0–19, and about 1/3 were women.⁶⁹ Most of the migrants

who came to Lithuania, and especially children, faced significant mental health challenges – poor emotional state, high levels of stress, anxiety, depression; most of them have experienced traumatic events, bereavement and violence, and some may have had pre-existing mental health difficulties and associated individual needs. Migrants, especially children, need early mental health interventions, the availability of which is unfortunately insufficient and scarce in Lithuania.

In 2021, a number of other processes took place in Lithuania that had an impact on the mental health of the population. During the same year, the Seimas rejected the proposal to decriminalize small amounts of drugs⁷⁰, and the Council of Europe Convention on preventing and combating violence against women and domestic violence was not ratified. And considerations of the partnership law were also postponed to the spring session of the Seimas in 2022. The significance of these decisions for the human rights situation in Lithuania is described in more detail in other sections of this Overview. This section simply draws attention to the fact that refusing to take these and other important decisions that prevent violence, discrimination and other violations of human rights inevitably has a negative impact and threatens not only the physical but also the mental health of our society.

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Right to Health of Stigmatized Groups

Laura Bliujienė

In 2020, 139 new HIV cases were recorded¹ in Lithuania, i.e. 5 cases per 100,000 people living in Lithuania. This is 12 cases less than in 2019. A total of 3,462 HIV-infected persons, most of whom are men infected via the use of injected drugs, were registered during the entire HIV infection registration period (1988 – 2020) in Lithuania. Even though most of the registered cases of HIV were related to infection via the use of injected drugs, a change was observed in 2019. According to the data of the Centre for Communicable Diseases and AIDS (hereinafter – CCDA)², in 2019, more than half – 52.3% of newly diagnosed persons contracted HIV through sexual intercourse (39.1% through heterosexual intercourse and 13.2% through homosexual intercourse); more than a third (31.8%) of infected persons contracted HIV via the use of injected drugs, and the source of infection was unknown in 15.9% cases. In 2019, most HIV cases were registered in the cities of Vilnius (64) and Klaipėda (13). According to the 2019 data by gender, 72.8% (110) of newly infected persons were men and 27.2% (41) were women.

Stopping the spread of HIV and overcoming the AIDS pandemic by 2030 is set as a global goal in the Joint United Nations Programme on HIV/AIDS (UNAIDS). An intermediate task of reaching the goal (known as 90-90-90) by 2020 was also set. It aimed to ensure that 90% of those infected with HIV would be aware of their diagnosis, 90% of diagnosed persons would receive treatment, and 90% of treated persons would have undetectable levels of the virus in their blood (i.e. they would no longer be able to transmit the virus to others)³. The UNAIDS report, based on the data provided by CCDA⁴, has stated that the implementation of the goals of the UNAIDS programme in Lithuania corresponded to 83-43-91 percent in 2019. This means that 83% of all people infected with HIV in Lithuania are aware that they have HIV, 43% receive HIV treatment, and 91% of HIV-infected persons treated in Lithuania have achieved good treatment results – the reproduction of the virus and its concentration in the blood was suppressed. Almost every second HIV patient receiving antiretroviral therapy in Lithuania has used injected drugs. According to UNAIDS⁵, the worldwide implementation of these goals corresponded to 84-73-66 percent in 2020.

Today, HIV-infected persons in Lithuania can be treated immediately, as soon as HIV is diagnosed, and the treatment itself is fully covered by the Compulsory Health Insurance Fund. However, the problem is that less than one in two people who are aware of their diagnosis actually receive treatment. One of the obstacles preventing people from getting or staying on their treatment (lifelong treatment is required) is the still prevailing stigma of an HIV diagnosis. In 2018, an HIV stigma index study was conducted for the first time in Lithuania according to international methodology⁶⁷. The obtained results have revealed that the internal stigma among HIV-infected persons in Lithuania is particularly high and leads to (in 90% of cases) the fear of telling others about their diagnosis. 58% feel worthless after being diagnosed with HIV, and some have stated that they were discriminated against in healthcare institutions where obviously excessive protective measures were used by the staff, or the staff refused to provide medical assistance. Most of the respondents who took part in the study did not know the laws that protect their rights as well as protect them against discrimination, therefore it is important to revise and assess the national HIV prevention and control programmes, and include specific measures that would help reduce the stigma and discrimination experienced by HIV-infected persons.

Another significant obstacle is access to healthcare services. The Law on the Health System of the Republic of Lithuania⁸ declares communication accessibility of healthcare services to the individual and the public. Communication accessibility is understood as the possibility to access a healthcare institution or to contact it.⁹ When measuring the level of communication accessibility, it is also important to take into account how long it takes to reach the nearest healthcare institution where the person would be provided with specialist (infectologist) consultations. HIV-infected persons living outside big cities are faced with the problem that local infectious disease doctors do not provide treatment for HIV, even though they are obliged to do so. Based on the experience of NGOs working

with HIV-infected persons, many patients are socially challenged individuals who find it difficult to keep up their treatment, making the services provided further away from where the patients live even less accessible.

The third significant obstacle is the overly complex bureaucratic procedures that an HIV-infected person must follow to receive treatment, as well as the lack of social support to help such a person overcome this challenge (the person is required to have an identity document and compulsory health insurance, must be registered at a healthcare institution, must see his family doctor and receive a referral to an infectious disease specialist, and must have at least a couple of consultations with the said specialist). It should be noted that many HIV patients are socially vulnerable persons who often do not have a compulsory health insurance or even an identity document, and are unable to obtain them on their own, or do not have the funds for an identity document or the funds to go to infectious disease specialists working in big cities, which is necessary to receive treatment.¹⁰

The national HIV/AIDS/STI prevention and control action plan 2018–2020 is the main document regulating the aim, objectives and expected implementation results of HIV control and prevention in Lithuania.¹¹ Unfortunately, from 2021 to the beginning of 2022, the responsible institutions of Lithuania did not prepare and approve the plan for the new stage in time. The main reason for this was the COVID-19 pandemic that hit the world as well as Lithuania, due to which attention was diverted from any other issues at the time. State-level decisions not taken in time cause direct damage to HIV prevention, the development of the application of harm reduction measures, the increase of coverage of examination and treatment, and the better legal status of HIV-infected persons.

Rights of persons addicted to psychoactive substances

In Lithuania, since 2017, illegal possession of drugs or even a very small amount of narcotic substances for the purpose other than distribution is subject to the most severe – criminal – liability. About 2,300 persons are convicted every year under Art. 259 of the Criminal Code of the Republic of Lithuania (unlawful possession of narcotic or psychotropic substances for the purpose other than distribution). 2,320 such criminal acts were registered in 2018, 2,375 in 2019, 2,206 in 2020, and 2,448 in 2021.¹²

The current punishment is disproportionate, excessive, contrary to human rights and does not achieve the main purpose of punishment to change the behaviour of a person who is using drugs. The biggest harm caused by criminalization is that people who use psychoactive substances are marginalized and find it harder to get help. Addiction to psychoactive substances is a chronic condition characterized by frequent relapse. An addicted person is punished for his illness, i.e. the use of drugs, instead of receiving healthcare and psychosocial support.

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The World Health Organization states¹³ that one of the most effective ways to deal with problems related to drug use is decriminalization of possession of small quantities of narcotic substances for the purpose other than distribution, and application of alternatives to punishments when, instead of criminal prosecution, a person is provided with the necessary healthcare or psychosocial and other help. The problem of drug use is viewed through the psychological, social and healthcare prism instead of criminal law.

Signs of decriminalization of possession of small amounts of narcotic substances in the legal acts regulating the drug policy of Lithuania can already be seen in a resolution adopted by the Seimas of the Republic of Lithuania in 2018 – National Drug, Tobacco and Alcohol Control and Use Prevention Programme for 2018–2028.¹⁴ Section 97 of the programme provides for decriminalization as one of

the systematic implementation points of the National Programme. In 2021, draft laws were registered in the Seimas of the Republic of Lithuania to decriminalize the possession of small amounts of narcotic substances for the purpose other than distribution, which were supported by the courts, the bar association, the Government, and other interested institutions.¹⁵ However, the draft laws were not approved at the adoption stage.¹⁶ At the beginning of 2022, possession of small quantities of narcotics for the purpose other than distribution was still criminalized.

Persons addicted to psychoactive substances serving their sentences in Lithuanian prisons face the problem of accessibility and continuity of addiction treatment. According to the data of the Drug, Tobacco and Alcohol Control Department¹⁷, on 31 December 2020, there were 1,035 imprisoned persons (987 men and 48 women) diagnosed with mental health and behavioural disorders due to drug use. The prison rehabilitation centre can accommodate 72 addicted persons, however only 20 people successfully completed the centre's program in 2020, and there were 57 such people in 2019.¹⁸ In 2020, there were 69 persons on the opioid substitution drug (methadone) treatment list, however 65 persons did not complete the treatment.¹⁹ There is no data on whether individuals continued treatment after leaving prison.

Healthcare for imprisoned persons must be of the same level as that provided to any other person. All persons addicted to psychoactive substances must receive continued treatment in prison, as well as the same treatment after being released. However, these rights are not sufficiently guaranteed.

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Social Rights

13



Social Rights

Rimgailė Baltutė

Social, economic and cultural rights are often classified as second-generation rights, however in the universal concept of human rights they are no less important than civil or political rights.^{1,2} Consolidation of social rights is a necessary condition for ensuring human dignity. They include the right to housing, food, education, healthcare as well as appropriate social security, guaranteeing an adequate standard of living for every citizen. Social rights are enshrined in the Universal Declaration of Human Rights³ and in the International Covenant on Economic, Social and Cultural Rights of 1966⁴.

The countries of the Council of Europe adopted the European Social Charter in 1961.⁵ It stipulates the obligation of countries to continuously strengthen social rights and improve the standard of living of their residents. The European Pillar of Social Rights⁶ (EPSR) was approved in Gothenburg in 2017, which sets out 20 principles divided into three categories: equal opportunities and access to employment, decent working conditions, social protection and inclusion. The EPSR action plan was approved in 2021, establishing specific goals and actions in order to ensure the social rights of people in the European Union (hereinafter – EU).⁷

The Constitution of the Republic of Lithuania⁸ also enshrines social rights, which include pensions and disability benefits, social assistance in the event of unemployment, illness, widowhood, loss of a breadwinner and other cases. Free education is provided in general education, vocational and higher education institutions.

Poverty – A Violation of Human Rights?

In 2001, the Committee on Economic, Social and Cultural Rights defined poverty as “a human condition characterized by sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights”⁹.

Unfortunately, poverty today is still very often seen as a matter of fate of the poor person or his/her family, rather than a matter of human rights. However, poverty is a structural problem caused by the effectiveness or ineffectiveness of social protection, redistribution within the country, regional, education or employment policies, and other political decisions. Poverty is very often the result of discrimination based on race, gender, disability, religion or cultural differences. And vice versa – people living in poverty often face discrimination due to their social and economic status.¹⁰

Poverty Situation and Trends in Lithuania

Poverty, social exclusion and income inequality are some of Lithuania's biggest challenges. Although the country's gross domestic product (GDP) is growing rapidly every year, not all Lithuanians are happy with the economic growth. In 2020, Lithuania's poverty risk threshold reached EUR 430 per person, and Lithuania's poverty risk level was 20.9%.¹¹



Data from the Lithuanian Department of Statistics

According to the data of Eurostat¹², Lithuania is one of the poorest countries in the EU. Based on the country's relative poverty index of 2020, Lithuania was surpassed only by Romania, Latvia, Spain and Bulgaria. It is important to mention that the poverty indicators are one year behind and reflect the income of 2019, therefore the consequences of the pandemic cannot yet be indicated as the reason. In addition, according to the data of the Lithuanian Department of Statistics, the poverty risk indicator in Lithuania has not changed significantly since the beginning of 2005, and reaches about 20% every year. As for income inequality indicators, Eurostat data shows that Lithuania's income distribution coefficient of S80/20, which measures the income gap between the 20% of the wealthiest members of society and 20% of the poorest members of society, reached 6.14 in 2020 and was one of the highest in the EU. On the other hand, the said gap has decreased in recent years, since this indicator was higher than 7 in 2018.

Some social groups are more sensitive to social and economic challenges and risks, and have fewer resources to successfully cope with them. When analysing the data of the Lithuanian Department of Statistics in various sections, we can distinguish that, in terms of the risk of poverty, the most vulnerable people in Lithuania are the unemployed, people living alone, single parents, old-age pensioners, people with disabilities, large families and children (see Fig. 1).

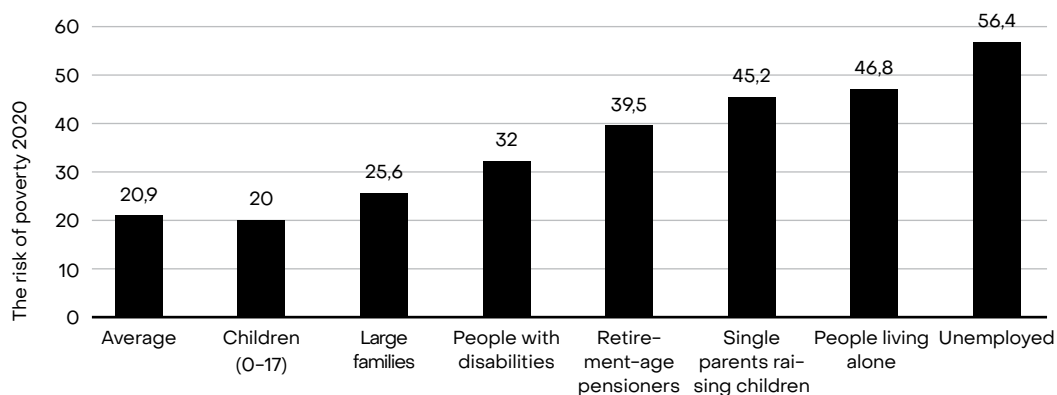


Figure 1. Groups most often experiencing poverty in Lithuania in 2020. Data from the Lithuanian Department of Statistics.

Compared to 2019, the poverty risk level of many of these groups has increased or remained similar in 2020. The largest increase is observed among the unemployed (increased by 2%) and retirement-age pensioners (increased by 4.4%). On the other hand, the poverty risk level of children has decreased by 2.7% in 2020. Since this indicator reflects the income of 2019, it can be assumed that the decrease in the poverty risk level of children was mainly influenced by the increased child benefits in 2019.¹³ Even though the size of pensions and the minimum monthly wage (MMW) have also increased in the same year, their growth was slower than the general standard of living in the country. The average pension was below the poverty risk threshold (EUR 344.4), reaching about 80% of the said threshold. MMW after taxes (396 EUR) reached about 92% of the poverty risk threshold.

It should be noted that a new indicator – absolute poverty – was calculated in 2017. The absolute poverty line is equated to the size of the minimum consumption needs basket (MCNB). This is an annually calculated amount of income necessary to satisfy a person's minimum food and non-food (goods and services) needs.¹⁴ Persons whose income does not reach this amount are considered to be living in absolute poverty. The estimated absolute poverty line in 2020 was EUR 257 per month per person, which is well below the poverty risk threshold. According to the data of the Lithuanian Department of Statistics, 5.1% of the country's population lived in absolute poverty in 2020. However, the level of absolute poverty is decreasing every year. In 2019, this indicator amounted to 7.7%.

Social Security in Lithuania – Is Enough Attention Paid To Reducing Poverty?

Various measures and policy areas are important for reducing poverty and guaranteeing social rights:

from the education to the tax policy. This is greatly influenced by social security, which can ensure a dignified standard of living in the face of various risks, when a person cannot do this on his or her own. However, the financing of social security in Lithuania is particularly low. According to Eurostat data, Lithuania allocates almost half less funds to social security, including pensions and other benefits and services, than the EU average. Based on the latest Eurostat data, in 2019, 16.5% of the gross domestic product (GDP) was allocated to social security in Lithuania, while the EU average was 28.1% of GDP. It is clear that very high indicators of poverty and social exclusion reveal a much greater need for funds to solve these problems.

This issue was noted by the European Commission, which pointed out that GDP redistribution in Lithuania is one of the lowest in the EU. This in turn leads to a particularly low capacity to finance social benefits and public services, and to a limited impact on reducing poverty, social exclusion and inequality.¹⁵ In recent years, including 2020, the recommendations of the EU Council¹⁶ encouraged Lithuania to ensure the coverage and adequacy of the minimum social security system, and to increase the effectiveness of the tax and social benefits system in order to prevent poverty.

Social allowances in Lithuania as a Challenge for Ensuring Social Rights

Social allowances is one of the key instruments of social security, which aims to ensure a minimum income and a dignified standard of living. Recipients of social allowances are persons whose income does not reach the set limit and who did not have or who lost the right to apply for social insurance benefits (for example, unemployment, disability, etc.). Thus, this form of support is the last safety net. The right to minimum income protection is also regulated by the EPSR, which provides that everyone who does not have enough funds to live on shall have the right to receive sufficient minimum income to ensure a dignified life at all stages of life, as well as the right to receive the goods and services that they need to ensure such a life.

According to Eurostat, 0.3% of GDP is allocated to social exclusion reduction benefits in Lithuania, mainly in the form of allowance, whereas the average of EU countries is 0.6%. According to the data of the Ministry of Social Security and Labour, the average amount of social allowances in Lithuania was EUR 1077 in 2021¹⁷. Thus, the amount of the allowance was approximately 4 times lower than the poverty risk threshold, and more than 2 times lower than the absolute poverty risk threshold. Although recipients of social allowances can also apply for other types of assistance, it was noted in the 2018 State Audit Report¹⁸ that, even after adding various types of assistance, such as, for example, compensation for housing, free meals for children and other services, the MCNB was not ensured for as many as 86% of recipients of assistance. This means that recipients of social allowances are not guaranteed a minimum standard of living, let alone dignified living conditions, social or cultural life.

It is also important to note that there are very few recipients of allowances in Lithuania: in 2021, about 2% of the Lithuanian population received social allowances.¹⁹ While the low number of beneficiaries is not a major problem in itself, their number in the context of very high poverty rates is a concern. We can single out several main reasons for this phenomenon. On the one hand, some people do not meet all the conditions necessary to receive assistance. For example, it is necessary to assess a person's income as well as his owned property such as cars, housing and other assets in order to decide on whether to grant him allowance.²⁰ There are also other conditions that make it difficult to receive social allowance, for example, individuals who are raising children alone and who want to receive allowance must take care of establishing the paternity of the children. According to the organizations working in the field of poverty and social exclusion, such requirements are excessive and not only prevent receiving financial assistance, but are also discriminatory.²¹

On the other hand, people do not apply for allowances even when they are entitled to them: studies show that about 20% of potential beneficiaries do not apply for allowances.²² Experiences of the national network of poverty alleviation organizations²³ show that some people do not know about the available assistance options, are unable to fulfil the administrative conditions, or want to avoid any stigma. The image of support or welfare recipients as abusers and idlers which is deeply rooted in society discourages some people from applying for the assistance that they are entitled to.

As a challenge to social rights, it is also important to mention the Description of Procedure for Performance of Activities Beneficial to the Public²⁴, which establishes that recipients of social allowance must perform works useful to the society at the request of municipalities. Otherwise, municipalities have the right to terminate the granting of allowance to residents. Generally, the said activities include continuous work of tidying up the environment. This procedure is flawed since it has characteristics typical of labour relations, however in this case people do not receive wages, do not feel like full-fledged members of society, and cannot accumulate formal work experience. In addition, activities beneficial to the public are usually organized without considering the individual needs of recipients of social allowance, the development of their work competencies, and actual employment opportunities. Often the work of tidying up the environment does not fully correspond to a person's qualifications, does not develop any necessary skills, and therefore does not contribute at all to empowering the person and bringing him closer to the labour market. Finally, activities beneficial to the public also contribute to the stigmatization of recipients of allowance and at the same time deepen the problem, since people often decide not to apply for allowance due to the said activities. Thus, recipients of social allowance who are often the most vulnerable people living in the country often suffer due to imposition of community service work as a way of saving money.

The COVID-19 Pandemic Has Hit the Poorest Members of Society the Hardest

Three representative surveys were conducted by Spinter Research in April and July of 2020 and in March of 2021 by commission of the National Network of Poverty Reduction Organizations and the Lithuanian Consumers Alliance. During the said surveys, respondents were asked to answer questions about the impact of the pandemic and the quarantine on their socio-economic status and psychological well-being. According to the data of the first quarantine surveys, about 5% of respondents said that they lost their job due to COVID-19, 35% experienced a significant decrease in income, 38% said that their family members lost their job or had a significant decrease in their income, 11% stated that they had insufficient funds to buy food, while 14% of respondents had insufficient funds to pay their rent or utility bills. Very similar data was obtained in the survey conducted during the second quarantine.²⁵

Data from all the conducted surveys has revealed the same patterns: the unemployed, less educated residents and self-employed persons working under an individual activity certificate suffered financially the most.

Lithuania is one of the poorest countries in the EU. Based on the country's relative poverty index of 2020, Lithuania was surpassed only by Romania, Latvia, Spain and Bulgaria.

The experiences of non-governmental organizations working in the area of reducing poverty and social exclusion only confirm the available data. Organizations mention a significantly increased flow of people asking for help, and an increased need for services, especially psychological support. Families raising children also faced significant difficulties – underprivileged families typically had to live in very cramped housing, struggled with distance learning, and did not always have the necessary means and tools for it.²⁶

The need for food aid has particularly increased during the quarantine. With reduced income and no access to free school meals, a number of organizations delivered hot meals to families directly. According to Vilnius Archdiocese Caritas, the number of people served in canteens has increased from 150 to 350 per day during the pandemic. A survey of food distribution points in Lithuania²⁷ has revealed that 42.3% of respondents felt an increased need for food aid. 26.8% said that the need has increased among certain groups. 14.1% noticed that there was an increasing need among new groups of recipients due to the quarantine. And 26.8% said that the need has not changed.

It is important to mention that new measures were introduced in 2020–2021 to address the socioeconomic consequences of the pandemic. Most of them focused on short-term help in times of crisis, such as leave of absence benefits for parents caring for young children, subsidies for wages during downtime, 257 euro allowances to self-employed persons²⁸, and job seekers' allowance of 200 euros²⁹.

Elderly residents, people with disabilities, widows, and orphans were assigned a lump-sum payment of 200 euros.³⁰ And lump-sum payments were also provided for children. Lump-sum payments made up a significant part of the package to reduce the social effects of the quarantine, however, they are viewed critically, since this amount could have been used for more sustainable solutions: to increase the smallest pensions and to ensure the continuity of services.

In summary, during the period under review, the poorest and most vulnerable population of the country suffered the most during the COVID-19 pandemic. On the other hand, the pandemic has simply exposed the long-standing gaps in ensuring social rights. It is necessary to invest much more funds in social security measures which should be based on human – social – rights approach in order to ensure the right of all individuals to a dignified life.

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Impact of the COVID-19 Pandemic on Human Rights and Freedoms

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Impact of the COVID-19 Pandemic on Human Rights and Freedoms

Jolita Miliuvienė

The pandemic caused by the previously unknown, rapidly spreading COVID-19 virus that hit the world in the spring of 2020 demanded a quick reaction from public authorities and their immediate solutions to control the situation. Measures taken to protect human health and lives have inevitably led to restrictions imposed on other human rights and freedoms, which were considered among the strictest in the last fifty years due to the scope of their application. In response to this situation, measures to control the spread of COVID-19 were also taken in Lithuania. The Government declared a state-level emergency situation in Lithuania by Resolution No 152 of 26 February 2020 “On the Declaration of a State-Level Emergency Situation”, which continued on for two years at the time of preparation of the report, as well as imposed two quarantines on the entire territory of the Republic of Lithuania². The application of special regimes in Lithuania made it possible to establish specific restrictions on constitutional freedom of movement, personal freedom, freedom of economic activity, the right to education, the right to the best possible healthcare services, the right to inviolability of private life, and other restrictions.

When analysing the restrictions on human rights and freedoms established by resolution of the Government, which were applied during the pandemic, it should be noted that the constitutional establishment of human rights and freedoms does not in itself mean that it is not possible to apply limitations to their implementation; however, according to the Constitution, it is possible to restrict the use of personal rights and freedoms only under certain conditions: 1) when this is done lawfully; 2) when restrictions are necessary in a democratic society in order to protect the rights and freedoms of other persons and the values enshrined in the Constitution, as well as constitutionally important objectives; 3) when restrictions do not negate the nature and essence of rights and freedoms; 4) when the constitutional principle of proportionality is observed.³ There were no doubts that the rapid spread of the little-researched COVID-19 virus posed a real threat to human and public health in the country, which is one of the most important values of society, named in the official constitutional doctrine as a constitutionally important goal and public interest⁴, especially since the coronavirus has claimed many lives. However, there was a debate as to whether the measures chosen by the Government were really proportionate to the pursued goal, whether they could have been established under a by-law, and whether they violated the constitutional principle of equality which prohibits discrimination. When assessing the lawfulness of the measures intended to manage the COVID-19 pandemic which restricted human rights and freedoms, scientific literature placed an emphasis on the classic conditions of restriction of human rights and freedoms, as well as stated that in this situation greater deviations from the normal balance are possible when combining the interests of society and its individual members⁵, emphasized the need to clearly determine the duration of the measures restricting human rights and freedoms⁶, and formulated the obligation to rely on special information (scientific research), a clear assessment thereof and estimations based on all available facts regarding the existence of the mentioned health risk when determining legal regulation restricting human rights and freedoms⁷, and to revise the imposed restrictions if necessary.

Restrictions of the Constitutional Freedom of Movement

In terms of specific restrictions on human rights and freedoms caused by the application of measures to control the pandemic in 2020–2021, it is first important to mention the restrictions on freedom of movement, closely related to personal freedom and the freedom to choose a place of residence, which caused perhaps the greatest impact in society. Prohibitions to move freely within the territory of the country (e.g., cross the boundaries of the municipality of residence) as well as return to and leave Lithuania, which were applied at different times during different periods, could undoubtedly be considered restrictions on the freedom to move and choose a place of residence in Lithuania and the freedom to leave Lithuania or even return to it, as enshrined in Article 32 of the Constitution. If

the right to move freely within the territory of the Republic of Lithuania, the right to choose a place of residence and the right to leave Lithuania, which constitute the content of the constitutional freedom of movement, are not absolute and may be limited by law pursuant to Article 32(2) of the Constitution for the purposes of protecting human health (inter alia), then the right to freely return to Lithuania according to Part 3 of the Constitution cannot be restricted under any circumstances, since this right is absolute according to the Constitution.⁸

After the declaration of quarantine in Lithuania in the spring of 2020, various restrictions on the freedom of movement were one of the main measures aimed at combating the spread of the new coronavirus. The first quarantine decree established a ban on leaving Lithuania (except for the provided exceptions)⁹, the obligation for all persons returning from specified foreign countries to self-isolate for 14 days (with subsequent exceptions)¹⁰ or self-isolate in a selected location (i.e. without leaving the premises) for a specified number of days after coming into contact with a person infected with coronavirus, the prohibition to go outside the municipality of residence during the Easter weekend (except for specified cases when leaving a municipality was necessary due to the death of close relatives, work-related matters, due to the need for medical assistance, or when owning real estate in another municipality)¹¹, temporary (week-long) restriction of entry to and exit from Nemenčinė¹², designation of specific border checkpoints for crossing the state border to restrict access to the territory of Lithuania through any other border checkpoints¹³, etc. These movement restrictions were lifted in the summer of 2020 after the lifting of the quarantine. However, given that the pandemic continued on, they were once again applied in the fall of 2020 – spring of 2021.

The second quarantine decree established a ban on the entry of foreigners to Lithuania (except for the provided exceptions)¹⁴, the obligation for persons returning or arriving to the Republic of Lithuania to have a negative PCR or antigen test¹⁵, meaning that a person who did not have the results of the said test was essentially unable to enter the territory of Lithuania and could not cross the borders of the municipality of residence (excluding exceptions) for a specified period of time (in this case for almost two and a half months)¹⁶, set certain restrictions on traveling by public transport (which were also applied during the first quarantine), and established the obligation to self-isolate upon returning from specified foreign countries, as well as self-isolate after coming into contact with an infected person (to a certain extent, depending on the pandemic situation). Most of these movement restrictions were applied temporarily and lifted altogether after the lifting of the second quarantine in the summer of 2021.¹⁷ However, the restriction on returning to Lithuania without a negative coronavirus test result or without being able to prove the fact of vaccination or immunity after a previous infection which was transferred to the Government's resolution on declaration of an emergency situation establishing pandemic control measures at a time when quarantine is not declared in Lithuania¹⁸, as well as the obligation to self-isolate after coming into contact with an infected person pursuant to the order of the Minister of Health¹⁹ (the scope of this obligation and the circle of persons to whom it applied were constantly changing²⁰) were in effect until the end of the period under review.

To summarize the restrictions on the freedom of movement applied in 2020–2021, it should be noted that some of the established measures fully restricted the freedom of movement (such as the requirement to comply with compulsory self-isolation), while others did so partially (e.g., prohibition to leave Lithuania without restricting movement within its territory at a certain time) or severely (movement prohibition between municipalities in Lithuania). Different durations of movement restrictions were set throughout the pandemic period (some were applied for a fixed period of time, others were cancelled after the pandemic situation has eased, and some were also applied at the beginning of 2022, when this article was being prepared). Regardless of the duration, strictness, full or partial application of the discussed movement restrictions, it can be assumed that none of them essentially denied the constitutional freedom of movement (even after the imposition of one of the most limiting movement restrictions – the ban on leaving a municipality of residence, movement was not restricted within it). Given the situation, most of the restrictions on the freedom of movement can be viewed as proportionate to the aim sought (including the obligation to self-isolate in a chosen location – even though it seems extremely strict and even resembles deprivation of liberty which is sometimes equated to detention due to its similarity to legal measures applied in the context of administrative or criminal law²¹, this obligation is not as severe as it seems, since individuals were able to choose their place of self-isolation, and self-isolation conditions were later relaxed enabling self-isolating persons to take a walk outside of their home). However, this assessment may differ when analysing specific examples of implementation of the established legal regulation (e.g., the obligation

to self-isolate only in the premises designated by the municipality for several days, as established in the order of the Minister of Health which was adopted in implementation of the Government's resolution²²).

Perhaps a slightly different assessment can be expected when it comes to the established requirements for citizens returning back to Lithuania, particularly the requirement to have negative coronavirus test results or proof of vaccination or immunity, without which the right to enter Lithuania was extremely restricted. As mentioned before, pursuant to Article 32(3) of the Constitution, the right of a citizen of the Republic of Lithuania to return to Lithuania is absolute and cannot be restricted. Based on the application of a group of members of the Seimas, the Constitutional Court shall examine whether the Government violated the Constitution by establishing such a requirement.²³

Restrictions of Constitutional Economic Freedom

In order to protect human and public health and prevent the spread of the coronavirus, measures were also established during the pandemic which restricted the freedom of economic activity guaranteed under Article 46 of the Constitution. The impact of these measures was felt not only by entities engaging in economic activities (owners of restaurants, shops, various businesses), but also by a large number of employees who could not work and receive their salaries due to restrictions on economic activity, i.e. to exercise their right to freely choose work and receive payment for it, as established in Article 48(1) of the Constitution. And certain restrictions on the freedom of choice were also encountered by those who have previously used the full range of services.

Like most other rights and freedoms guaranteed by the Constitution, the freedom of economic activity is not absolute, and mandatory requirements and restrictions may be set for its implementation.²⁴ Although the Constitution does not directly enshrine such grounds for restricting the freedom of economic activity as an effort to protect human and public health, it can be derived from the obligation of the state to regulate economic activity enshrined in paragraph 3 of Article 46 of the Constitution in such a way as to ensure the general well-being of the nation.²⁵ The requirement to ensure the general well-being of the nation presupposes the authority of the legislative entity to establish such legal regulation of economic activity which would create prerequisites for ensuring human and public health, as required by Article 53 of the Constitution. Thus, restriction of economic activity which aims to protect human health can be viewed as designed to ensure the general well-being of the nation, and could not in itself be considered a violation of the Constitution if the requirements arising from the Constitution are respected.²⁶ Of course, this must be done in compliance with the conditions for restricting economic activity arising from the Constitution, including the requirement to establish key conditions of economic activity, as well as prohibitions and restrictions that have a significant impact on economic activity only by law.²⁷

After a quarantine was declared in the spring of 2020 due to the spread of COVID-19, the Resolution of the Government of 14 March 2020 has prohibited during a certain period all cultural, sports, entertainment and leisure activities, including the activities of casinos, wellness service centres, sanatoriums, spa and recreation centres, restaurants, cafes, bars, night clubs (except when providing food delivery and take-out services), shops and shopping centres (with the exception of the sale of food and pharmaceutical products), and beauty salons. Thus, certain economic and commercial activities were completely prohibited during a specified period of time, while others were very restricted. Restrictions were relaxed later on by setting certain working hours (e.g., restaurants were permitted to serve customers outside, work until 22:00, etc.).

After the restrictions of economic activity were lifted in the summer of 2020²⁸, they were imposed once again at the end of 2020²⁹. They were also applied in the spring of 2021, and, after the quarantine regime was lifted in the summer of 2021³⁰, some of them were transferred to the Government resolution regulating the declaration of an emergency situation, by giving them a slightly different form. At the end of 2020 – beginning of 2021, the activities of shops, including shopping and entertainment centres, markets and other places of sale of goods was prohibited (except for the sale of food products, medicines, veterinary supplies). It was also prohibited to provide many services where direct contact between people was longer than 15 minutes, and restrictions were imposed on hotels, wellness centres, recreational and sports clubs, cultural institutions (which in a certain sense

limited the right to culture), organization of events, etc.

After the quarantine was lifted in the summer of 2021 and was replaced by the Government's resolution declaring an emergency situation throughout the territory of Lithuania, the possibility to provide services or serve customers in the performance of economic activity was associated with the compliance of people with certain criteria established by the Government's resolution.³¹ Thus, on the one hand the absolute ban on carrying out specified economic activities was abolished, but on the other hand the freedom of economic activity continued to be restricted, since the services provided could only be used by persons meeting the established criteria (who were vaccinated, had immunity or negative test results, therefore the circle of persons who could use the services was obviously limited). In addition, after the establishment of such legal regulation under which most contact services could be used by or provided only to persons meeting the established criteria in the course of economic activities or when organizing events, doubts arose as to whether persons who do not meet the said criteria are discriminated against, or whether such legal regulation creates assumptions that an obligation to get vaccinated with the specified vaccines was actually imposed. It is doubtful that the fear of compulsory vaccination is particularly justified (vaccination would be considered mandatory if non-fulfilment of this obligation would lead to corresponding sanctions³² or would limit essential human needs which certainly do not include the possibility to visit beauty salons or sports clubs) and should be seen as a violation of human rights. It should also be considered whether an objective justification in terms of discrimination could be found for the application of such legal regulation to groups of persons defined by different characteristics (those who meet the established criteria and those who do not). Answers to these and other questions could have been provided by the Constitutional Court after examining the so-called "opportunity passport" case, however this case was closed at the beginning of 2022³³. However, there is no doubt that the Constitutional Court may have to once again address this matter when defending the interests of individuals which were violated by measures applied during the quarantine.

In terms of restrictions of economic activity and the constitutional requirement to establish the essential conditions of economic activity by law, it should be noted that both the Law on the Prevention and Control of Communicable Diseases in Humans, which regulates the legal regime of quarantine, and the Law on Civil Protection, which regulates emergency situations, provide for the possibility to establish certain restrictions on economic activity in the event of such a situation. However, none of these laws stipulate that the possibility of engaging in economic activity may be prohibited altogether at a certain period of time. Given that the extremely general, abstract provisions of the law cannot be considered a sufficient basis on which to legitimize any actions of the state executive authority³⁴, it should be considered whether the permission to restrict economic activity actually includes its complete prohibition, especially where no time limit is set for the application of such restrictions, as in this case in Lithuania.

Limiting Access to Healthcare Services During the Pandemic

As mentioned before, the restrictions on human rights and freedoms established by Government resolutions aimed to ensure the protection of human and public health during the coronavirus pandemic. Yet, paradoxically, some of the measures established to contain the spread of COVID-19 have also restricted access to healthcare, thus potentially curtailing the constitutional right to the best possible health.

Article 53(1) of the Constitution clearly establishes that the state must take care of its people's health and guarantee medical aid and services when a person falls ill. The constitutional obligation of the state to take care of its people's health, including, inter alia, the obligation to ensure medical aid and services when a person falls ill, is determined by the natural human right to the best possible health and the social right to healthcare, which is an integral part of human dignity and the right to life.³⁵ Taking care of human health is a function of the state: according to the Constitution, the state is obliged to protect its citizens from threats to their health – to reduce the danger to health and to prevent it when possible, to improve the ability of people and society to overcome health risks, and to ensure the availability of medical services in case of illness.³⁶ Apparently, this is precisely what public authorities tried to do by all possible means, which led to the restriction of other human rights and freedoms. However, certain challenges were encountered in this area as well.

In response to the fact that healthcare institutions were quickly filled up with coronavirus patients, the Government made a decision to organize the work of healthcare institutions in a different way than before – to postpone planned surgeries, except for emergency care and healthcare services whose postponement would result in the need for emergency medical care or result in serious deterioration of the patient's condition; to postpone planned hospitalization; to provide ambulatory healthcare services remotely; to postpone planned consultations, as well as diagnostic, preventive and therapeutic services; to postpone dental services except for essential ones.³⁷ In other words, in the spring of 2020, a decision was made not to provide the majority of healthcare services or to provide them remotely, with the exception of emergency assistance and services whose postponement would have a direct impact on the deterioration of the patient's health. Such legal regulation was aimed at reducing the flow of patients in healthcare institutions, as well as preserving the available infrastructure and the material and human resources. However, it cannot be overlooked that such decisions had a direct impact on the health of persons suffering from diseases other than the coronavirus. The report of the Seimas Ombudsperson notes that certain health disorders were not diagnosed since people did not seek a diagnosis of suspected illnesses or did not undergo preventive health examinations. They were also not provided with appropriate treatment, which posed risks to the health or even the life of such persons³⁸. Such absolute closure of all healthcare institutions for patients other than those suffering from the coronavirus, without ensuring the possibility of timely access to effective medical assistance and other healthcare services in order to protect the health of some individuals, has posed a risk to the health of other individuals.

Legal regulation according to which healthcare services, with the exception of emergency assistance, were not provided at all for a certain period of time or their availability was substantially limited throughout the entire territory of the state without any differentiation based on some kind of criteria cannot be justified, even if such restrictions were intended to ensure the smooth functioning of healthcare institutions. The restrictions that were applied during the first quarantine raise discussions regarding the absolute denial of the right to health of some individuals. Therefore, it is a positive thing that such strict regulation and almost absolute restriction of the provision of healthcare services were abandoned during the second quarantine and later on, after determining that the restriction of access to healthcare services is applied only in regions or healthcare institutions which actually record a large number of people infected with the coronavirus. During the second quarantine, such restrictions on the provision of healthcare services were applied for a much shorter time and on a much smaller scale (not all planned surgeries or hospitalizations were cancelled; it was determined which services must be provided directly; most services were provided either remotely or directly, by taking into account the interests of patients³⁹), efforts were made to ensure the control of patient and visitor flows, and exceptions were established regarding the prohibition to visit hospitalized family members.

However, in terms of the measures established by Government resolutions which limited the provision of healthcare services, there are doubts as to whether such restrictions of one of the basic constitutional rights have a sufficient legal basis. It should be noted that neither the Law on the Prevention and Control of Communicable Diseases in Humans, nor the Health System Law, nor even the Law on Civil Protection provide that declaring an emergency situation or even a quarantine may restrict the provision of healthcare services. Even if there was an attempt to equate the provision of healthcare services with economic activity, as noted in one of the rulings of the Constitutional Court, it can be assumed that this activity is so specific that it cannot really be subject to provisions of the law of a very general nature, enabling to restrict economic activity. Thus, the lawfulness of such measures can be reasonably questioned at this point.

Limiting the Right to Education During the Pandemic

Finally, it is important to mention the decision that disrupted the daily lives of people the most, which aimed at reducing contact among people to prevent the spread of the coronavirus. This included complete suspension of kindergarten, pre-school and other non-formal children's education, as well as primary, basic and secondary education for a while, after initial declaration of an unplanned school holiday and then transition to distance education⁴⁰. The consequences of such a decision were felt

not only by children and schoolchildren who were separated from their peers, but also by their parents who had to reorganize their daily schedules in order to take care of their young children. Kindergarten and pre-school activities were resumed later on, however primary, basic, secondary, as well as higher and vocational education activities were organized remotely for an extended period of time in 2020.

After the quarantine was lifted in the summer of 2021 and the state-level emergency situation remained in force, in preparation for the new school year, teaching in primary, basic and secondary educational institutions was resumed, however non-remote higher and vocational education was available only to persons who could provide proof of vaccination, immunity or negative coronavirus test results.⁴¹

Article 41(1) of the Constitution stipulates that education is compulsory for persons under the age of 16, and Article 41(3) provides that higher education is accessible to everyone based on the abilities of each person. In interpretation of these provisions, the Constitutional Court emphasizes the obligation of the state (its institutions) to ensure that all persons under the age of 16 have the opportunity to receive free education in state or municipal general education, vocational or higher education schools, and guarantee that education in these institutions is equally accessible to all.⁴² At the same time, the doctrine of the Constitutional Court has noted that the state shares the burden of implementation of constitutional obligations, which constitute the content of the right to education, with the parents: the directionality, quality and diversity of education must be ensured not only by state and municipal educational and upbringing institutions specified in the Constitution, but also by the parents (guardians) who have the constitutional right to take care of the religious and moral education of their children (wards) according to their beliefs.⁴³

So, although it is indisputable that distance learning, which was applied in Lithuania longer than in other European countries, is not equivalent to regular physical school classes, and as a result not only pupils and students suffered inconveniences, but also their parents who were obliged to ensure the necessary conditions (including technical ones) for their children to participate in distance learning classes, it cannot be stated that the right to education was denied by such legal regulation, since educational services were actually provided, with the exception of a rather short unplanned holiday which was needed for the education system to adapt to the changed situation. Constitutionally, it would be difficult to substantiate why distance learning does not ensure adequate education and whether such legal regulation was really disproportionate given the situation at the time and the rapidly increasing number of coronavirus infections, especially considering that vaccines against COVID-19 were not universally available at the time, and that only a small part of the society actually got vaccinated after people were able to do so later on. Especially since this, like other restrictions, was aimed at ensuring the interest of public health protection. However, in terms of reasonableness and proportionality, the requirements applied in educational institutions which have resumed in-person classes (such as the requirement to be periodically tested, wear masks in educational institutions, especially for primary school pupils⁴⁴, etc.) can be considered debatable. The fact that the right to education when providing services remotely is not too restrictive in this situation was also confirmed by the German Federal Constitutional Court⁴⁵, and there is no reason to believe that, based on similar arguments, such regulation could be evaluated differently in Lithuania.

Restrictions of Other Constitutional Rights and Freedoms During the Pandemic

Measures applied to control the pandemic have undoubtedly affected many other constitutional human rights and freedoms. For example, the provisions of the Government's resolution of 26 February 2020 (28 June 2021 version with subsequent amendments) have established the possibility of checking whether persons wishing to use contact services meet the criteria established by the Government – whether they are vaccinated, have immunity or have negative coronavirus test results, thereby creating prerequisites for disclosing to third parties certain personal data related to the health of persons wishing to use the services. Thus, the question of inviolability of private life may be raised. Bans on gatherings of more than 2 people and then more than 5 people later on, which were imposed in the spring of 2020, in the fall of 2020 and once again in the spring of 2021, raised discussions on the freedom of assembly and restrictions on private life, preventing meetings among persons. Family life was also restricted to a certain extent due to the ban on meetings between people of more than one or two households, thus separating families living in different households

for a certain period of time. In addition to direct restrictions laid down in the legal acts, it is hard to ignore the human rights violations that were provoked by the situation caused by the pandemic – increased domestic violence, increasing social exclusion, discrimination of the most vulnerable groups in society, restrictions and challenges regarding the right to apply to court, etc.

Nevertheless, this can still be considered valuable experience, and the lessons learned during the pandemic, including those related to the protection of human rights and freedoms and establishment of a fair balance between various constitutional values, will undoubtedly be applied in the event of other similar situations after the pandemic, which will no longer be as unexpected.

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- ⁶ Toma Birmontienė, Jolita Miliuvienė, “Challenges of the Pandemic to Human Rights and Freedoms”. From: *Lithuanian Law 2020: Substantial Changes, Part I. Solutions to the Covid-19 Pandemic: Legal, Management and Economic Solutions*. Vilnius: MRU, 2021, p. 46–65, <https://repository.mruni.eu/handle/007/17050>
- ⁷ Arnold Rainer, “Pandemia and constitutional law: some reflections on the German experience”, *Journal of Legal and Administrative Studies* 1, 22 (2020): 44–45, <https://www.ceeol.com/search/article-detail?id=933591>
- ⁸ Ruling of the Constitutional Court of 11 January 2019, <https://lrkt.lt/lt/teismo-aktai/paieska/135/ta1898/content>
- ⁹ Clause 3.1.4 of Government Resolution No. 207 of 14 March 2020.
- ¹⁰ Clause 3.1.5 of Government Resolution No. 207 of 14 March 2020.
- ¹¹ Resolution of the Government of the Republic of Lithuania on Amendment of Resolution No. 207 of the Government of the Republic of Lithuania of 14 March 2020 “On the Declaration of Quarantine in the Territory of the Republic of Lithuania”, 8 April 2020, No. 345, <https://www.e-tar.lt/portal/lt/legalAct/105c3c7079a11eab005936df725feed>
- ¹² Resolution of the Government of the Republic of Lithuania on Amendment of Resolution No. 207 of the Government of the Republic of Lithuania of 14 March 2020 “On the Declaration of Quarantine in the Territory of the Republic of Lithuania”, 15 April 2020, No. 371, <https://www.e-tar.lt/portal/lt/legalAct/6cf89ef07f221eab005936df725feed>
- ¹³ Ibid.
- ¹⁴ Clause 2.1.2 of Government Resolution of 4 November 2020.
- ¹⁵ Clause 2.1.31 of Government Resolution of 4 November 2020 (3 March 2021, <https://www.e-tar.lt/portal/lt/legalAct/34eaa4d07cc011eb9601893677bfd7d8>, and subsequent revisions).
- ¹⁶ Clause 2.1.7 of Government Resolution of 4 November 2020 (revisions of 14 December 2020, <https://www.e-tar.lt/portal/lt/legalAct/a5ab19003e3311eb8d9fe110e148c770>, 3 January 2021, <https://www.e-tar.lt/portal/lt/legalAct/40799de04dba11eb9dc7b575f08e8bea>).
- ¹⁷ Resolution of the Government of the Republic of Lithuania on Abolition of Resolution No. 1226 of the Government of the Republic of Lithuania of 4 November 2020 “On the Declaration of Quarantine in the Territory of the Republic of Lithuania”, 28 June 2021, No. 499, <https://www.e-tar.lt/portal/lt/legalAct/37917570d81311eb9f09e7df20500045>
- ¹⁸ Clause 2.5 of Government Resolution of 26 February 2020 (revision of 28 June 2021 <https://www.e-tar.lt/portal/lt/legalAct/50a2ef10d8ce11eb9f09e7df20500045>).
- ¹⁹ Order No V-352 of the Minister of Health of 12 March 2020 “On Approval of Regulations for the Isolation of Persons Infected with COVID-19 Disease (Coronavirus Infection) and Persons Suspected of Having COVID-19 Disease (Coronavirus Infection)” (with subsequent amendments and supplements).
- ²⁰ For example, self-isolation requirements were extremely strict at the beginning of the quarantine – it was prohibited to leave one’s chosen premises for the entire duration of self-isolation. However, after a relevant order of the Minister of Health was changed, the self-isolating person was able to leave his or her place of self-isolation in order to, among other things, ensure the wellbeing and meet the physiological needs of his or her farm animals or pets, when it was possible to do so while avoiding contact with other persons.

- ²¹ Toma Birmontienė, Jolita Miliuvienė, “Challenges of the Pandemic to Human Rights and Freedoms”, p. 56.
- ²² Resolution of the Minister of Health of the Republic of Lithuania – State-Level Emergency Operations Manager “On Isolation of Persons in Premises Provided by Municipal Administrations”, 23 March 2020, No. V-499, <https://www.e-tar.lt/portal/lt/legalAct/57fe14e06d9711eabee4a336e7e6fdab>.
- ²³ Case pending in the Constitutional Court, Case No. 9/2021, see: https://www.lrkt.lt/~prasymai/8_2021.htm
- ²⁴ Ruling of the Constitutional Court of 20 April 1995, <https://lrkt.lt/lt/teismo-aktai/paieska/135/ta428/content>
- ²⁵ Toma Birmontienė, Jolita Miliuvienė, “Challenges of the Pandemic to Human Rights and Freedoms”.
- ²⁶ Rulings of the Constitutional Court of 29 September 2005, <https://lrkt.lt/lt/teismo-aktai/paieska/135/ta246/content>, 21 June 2011, <https://lrkt.lt/lt/teismo-aktai/paieska/135/ta152/content>.
- ²⁷ Rulings of the Constitutional Court of 31 May 2006, <https://lrkt.lt/lt/teismo-aktai/paieska/135/ta213/content>, 15 March 2008, <https://lrkt.lt/lt/teismo-aktai/paieska/135/ta490/content>.
- ²⁸ Resolution of the Government on Abolition of Resolution No. 207 of the Government of the Republic of Lithuania of 14 March 2020 “On the Declaration of Quarantine in the Territory of the Republic of Lithuania”, 10 June 2020, No. 579, <https://www.e-tar.lt/portal/lt/legalAct/a93ec510abcd11eab9d9cd0c85e0b745>.
- ²⁹ Government Resolution No. 1226 of 4 November 2020 “On the Declaration of Quarantine in the Territory of the Republic of Lithuania”.
- ³⁰ Resolution of the Government of the Republic of Lithuania on Abolition of Resolution No. 1226 of the Government of the Republic of Lithuania of 4 November 2020 “On the Declaration of Quarantine in the Territory of the Republic of Lithuania”, 28 June 2021, No. 499, <https://www.e-tar.lt/portal/lt/legalAct/37917570d81311eb9f09e7df20500045>.
- ³¹ Clauses 3.1.1– 3.1.4 of Government Resolution No. 152 of 26 February 2020 (revision of 29 September 2021).
- ³² Reuters, “Austria plans to fine vaccine holdouts up to 3,600 euros a quarter”, 9 December 2021, <https://www.reuters.com/world/europe/austria-announce-details-planned-covid-19-vaccine-mandate-2021-12-09/>
- ³³ Constitutional justice case no. 21/2021 was closed under resolution of the Constitutional Court of 9 February 2022 by request of a group of members of the Seimas, after the Government repealed the contested legal regulation (<https://lrkt.lt/lt/teismo-aktai/paieska/135/ta2610/content>). The Constitutional Court has noted in its resolution that it will return to this constitutional issue when it is relevant in defending the violated interests of a specific person.
- ³⁴ Arnold Rainer, “Pandemia and constitutional law: some reflections on the German experience”, Journal of Legal and Administrative Studies 1 (22), 2020.
- ³⁵ Ruling of the Constitutional Court of 16 May 2013, <https://lrkt.lt/lt/teismo-aktai/paieska/135/ta87/content>
- ³⁶ Rulings of the Constitutional Court of 2 September 2009, <https://lrkt.lt/lt/teismo-aktai/paieska/135/ta527/content>, 9 May 2013, <https://lrkt.lt/lt/teismo-aktai/paieska/135/ta86/content>.
- ³⁷ Clause 3.4 of Government Resolution of 14 March 2020 (with subsequent amendments and supplements prior to 18 May 2020).
- ³⁸ Seimas Ombudsperson’s Office, “Report on the legal acts of the Republic of Lithuania regulating the management of emergency situations and the compliance of certain emergency situation control measures applied during the quarantine in the territory of the Republic of Lithuania with the international obligations of the Republic of Lithuania in the field of human rights and freedoms”, 12 November 2020, No. NŽTI-2020/1-3, 21
- ³⁹ Clause 15 of Government Resolution of 4 November 2020 (with subsequent amendments valid prior to 1 July 2021).
- ⁴⁰ It was established in Clause 3.3 of Government Resolution of 14 March 2020 that “the education and childcare process as well as educational activities in all educational institutions, day and employment centres shall be stopped by organizing the education process remotely.”
- ⁴¹ Clause 3.2.1.2 of Government Resolution of 4 November 2020.
- ⁴² Ruling of the Constitutional Court of 13 June 2000, <https://lrkt.lt/lt/teismo-aktai/paieska/135/ta343/content>
- ⁴³ Ibid.
- ⁴⁴ The issue of wearing masks in primary school classes has also reached the Constitutional Court after the discussed period, however the matter of its admissibility had not yet been resolved at the time of preparation of the publication. Ruling of the Supreme Administrative Court of Lithuania of 23 February 2022 in administrative case No. I-3-602/2022. <https://lrkt.lt/lt/prasymai/neisnagrinetu-prasymu-sarasas/370>
- ⁴⁵ Judgment of the German Federal Constitutional Court of 19 November 2021, 1 BvR 971/21, 1 BvR 1069/21, <https://www.bundesverfassungsgericht.de/SharedDocs/Pressemitteilungen/EN/2021/bvg21-100.html>

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