

europaean network against racism

ENAR Shadow Report 2006

ENAR SHADOW REPORT 2006

RACISM IN LITHUANIA

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Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it. Even where there is extensive official data, NGOs offer a vital alternative data source that comes directly from experiences of those individuals and communities experiencing racism on a daily basis.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism with the EU and its Member States. NGO reports are, by their nature, based on many sources of data, official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by the racism that is the subject of the research. It is this that gives NGO reports their added value, complementing academic and official reporting.

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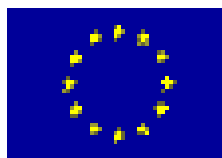


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1. Executive summary

Social surveys reveal that in Lithuania the Roma, Chechens, refugees and Muslims are the groups least tolerated and thus most vulnerable to racism. Data display a drastic rise of Islamophobia in 2006. Negative attitudes towards Chechens and refugees have also risen compared to 2005.

There is a serious lack of official statistics regarding the situation of ethnic minorities. Recent research reveals that the biggest obstacle for successful integration of ethnic minorities in the labour market is a lack of proficiency of the state language.

Lithuania has a relatively well-developed infrastructure for minority education, namely primary and secondary education in minority languages. However there is not much debate about the quality of education in minority and majority schools. Experts maintain that the majority and minority schooling systems remain somewhat segregated subsystems, minority schools lagging behind majority schools. The Roma community suffers from the lowest education attainment rates.

According to unofficial data the number of violent racist attacks increased in 2006. Although significantly more criminal investigations were started on the basis of Criminal Code articles prohibiting racist violence and crimes, the efficiency of police to bring cases to court decreased. Furthermore, committing an offence with a racist motive or aim is not yet considered as an aggravating circumstance by the Criminal Code.

Articles from internet news portals which discuss issues related to national minorities receive the most commentary, (after publications on politics and basketball). Comments are often straightforwardly negative and sometimes even explicitly racist.

Arguably the most welcomed development in national policy against racism and discrimination was the adoption of the National Anti-discrimination Programme for 2006-2008 by the Government of the Republic of Lithuania. Unfortunately however, civil society was not duly involved and consulted during the preparation of the programme. National legislation (Law on Equal Treatment) failed to transpose the requirements of the EU Race Equality Directive in a significant number of crucial areas and thus is still not in compliance with EU standards.

Services provided for asylum seekers and refugees at the Foreigners Registration Centre are poor. Asylum seekers with special needs (women, children, elderly, traumatized and disabled people) are in a very poor social environment surrounded by uniformed border guards and next to detained illegal migrants.

The situation of minorities and migrants are rather well taken into account in major governmental documents, problems are clearly identified. National anti-

discrimination programme identifies the state and the main causes of discrimination of ethnic minorities and foresees significant number of measures to improve the situation. However, some NGO's criticised the measures of the programme, especially concerning Roma, as not effective and not direct.

Recommendations:

- The Government should allocate substantial resources to raising awareness and fighting prejudice in society in order to stop the increase of intolerance and xenophobia;
- The Government should enhance social dialogue with ethnic minorities' organisations and NGOs dealing with anti-discrimination;
- Comprehensive statistics on the ethnic composition of society and the situation of vulnerable groups should be collected by competent institutions;
- The unemployment of ethnic minorities could be reduced by providing accessible state language courses for ethnic minorities (especially the older generation);
- A comprehensive assessment of education quality in non-Lithuanian speaking schools should be implemented;
- A National Programme for Roma Integration into Lithuanian Society should be prepared by the Government;
- The effectiveness and competence of pre-trial institutions dealing with racist crimes and violence should be improved by providing relevant training for law enforcement officials;
- Racist motives should be included into pre-trial statistical cards, used by the police in order to get a full-scale picture of racist crimes in Lithuania;
- Committing of an offence with a racist motivation or aim should be introduced as an aggravating circumstance in the Criminal Code;
- Law enforcement institutions should tackle incitement in internet comments rigorously by legal means;
- The Government should enhance sound social dialogue with ethnic minorities' organisations and NGOs dealing with anti-discrimination;
- The provisions of the EU Race Equality Directive should be properly implemented in the Law on Equal Opportunities at the national level;
- The national reception system of refugees and asylum seekers should be brought in line with requirements of the Council Directives 2003/9/EC and 2004/83/EC;
- The social environment and services for the asylum seekers at the Foreigners Registration Centre should be improved dramatically;
- Either more resources should be allocated, or the quality of management of funding should be improved in order to produce more sustainable positive results.

2. Introduction

The purpose of this report is to provide a general view from the civil society perspective on racism and discrimination in Lithuania during the period of January to December 2006. Statistics and data provided by NGO's indicate a rise in racism and xenophobia in Lithuania. The negative attitudes in society towards the most vulnerable groups (Roma, Chechens, Muslims and migrants) have also increased. Surveys display a drastic rise of Islamophobia in 2006.

Unofficial data indicates that so-far relatively weak extreme right-wing movements are gaining strength. Although significantly more criminal investigations regarding racist criminal activities were started in 2006 compared to previous years, the efficiency of the police to bring cases to court decreased. This raises concerns about the effectiveness of legal procedures as well as the capability of authorities dealing with racist violence and crimes. In 2006, case law on discrimination on all grounds covered by the EU Equality Directives (including race, religion, or ethnic origin) remained non-existent. The participation of ethnic minorities' organisations in legal proceedings on behalf of a victim is hardly possible.

Still, some positive examples must be mentioned. In 2006, fewer cases of incitement or racist statements in the media occurred compared to previous years. The Government is aware of the problematic situation and has made efforts to address it. The most significant development in the national policy against racism was the adoption of the National Anti-discrimination Programme for 2006-2008, which foresees various measures to tackle social exclusion, racism and discrimination. However, the fact that the EU Race Equality Directive is still not properly implemented into national law indicates that more efforts must be made and substantial resources should be allocated.

The first part of the present report focuses on the situation of vulnerable groups in Lithuania. Data from recent surveys is followed by the analysis of manifestations of racism and discrimination suffered by vulnerable groups in different areas of life. A brief analysis of national policy, legislation and non-governmental initiatives is provided in the second part. The report concludes by providing recommendations for policy and action at the national level.

3. Communities vulnerable to racism

There is a significant lack of data on the ethnic composition of Lithuanian society and on communities vulnerable to racial discrimination in Lithuania. The Committee on the Elimination of Racial Discrimination (CERD) also raised this issue in its latest observations (21 March 2006) as an obstacle to the assessment of progress towards the elimination of discrimination based on race, colour, descent, or national or ethnic origin^{Error! Bookmark not defined.}**Error! Bookmark not defined.** National legislation also does not provide a clear distinction between 'ethnic' minorities or groups and 'national' minorities.

According to the latest census data (2001), Lithuanians account for 83.5% of the population.¹ The biggest minority groups are Poles and Russians. Poles make up 6.7%, Russians 6.3%, Byelorussians 1.2%, and Ukrainians 0.7%. Jews, Germans, Tatars, Latvians, and the Roma make up 0.2%, while 0.9% of the population did not indicate their nationality at all. Citizens of the Republic of Lithuania make up 99% of the population, citizens of the Russian Federation account for 0.4%, citizens of other countries make up 0.2%, and those without citizenship 0.3%, whereas 0.1% of the population did not indicate their citizenship. Thus with some regional exceptions Lithuanian society can be considered rather homogeneous².

The same applies to religion and beliefs. 79% of the population consider themselves Roman Catholic, 9.5% are non-believers, 4% are Orthodox and 7.5% belong to other religious communities.

According to monitoring data from the Centre of Ethnic Studies (CES) at the Institute for Social Research, social surveys reveal that in Lithuania the Roma, Chechens, refugees and Muslims are the groups least tolerated and thus most vulnerable to racism groups. Given that Roma represent only 0.07% of the population and Muslims only 0.08% of the population, it is likely that many in Lithuanian society do not have the experience of personal encounters with these groups and therefore their negative stereotypes towards these groups are mostly formed by information provided in the media. The survey, conducted in March 2006³, revealed that 75% of respondents mentioned Roma, 58% mentioned Muslims, and 25% mentioned Jews, as those with whom they would not like to live in the same neighbourhood.

The Roma are the most vulnerable group with regards to multiple discrimination in the fields of employment, education, housing, policing, etc. Extreme poverty, low education levels, involvement in illegal activities and the

¹ Statistikos departamentas prie Lietuvos Respublikos Vyriausybės, 2001 gyventojų surašymo duomenys, <http://www.stat.gov.lt/lt/pages/view/?id=1198>, accessed 28 April 2007.

² Exceptions to this must be mentioned: Vilnius region municipality (76.5% of the population are non-Lithuanian, 61.3% of the population are Polish), Salcininkai region municipality (88.6% of the population are non-Lithuanian), Visaginas city (79% of the population are non-Lithuanian, 52.4% are Russian), and Vilnius city (57.8% of the population are Lithuanian, 18.7% are Poles and 14% are Russian).

³ Socialinių tyrimų instituto Etninių tyrimų centras, Etninis nepakantumas 2006, http://www.ces.lt/downloads/structure/files/ETC_Etninis_nepakantumas_2006_03_20.pdf, accessed 2 May 2007.

negative attitudes of the majority contribute to maintaining the social exclusion of this group. The most common Roma stereotypes are that they are inclined to commit offences, and are dirty, ailing and in general untrustworthy.

The majority of Roma in Lithuania (more than 46%) are youth⁴. This can be attributed to recent migration patterns, and even the short life expectancy of Roma people as a result of their low quality of living. Their integration into society is a difficult process because many of them do not know the state language (although the majority of them do speak Russian) thus the question of their education and later employment is very complicated. The self-isolation of Roma commonly cited by the majority population is a myth evidenced by attempts by the Roma to change the existing situation. However, it should be noted that in 2006 no complaints regarding Roma discrimination were registered at the Equal Opportunities Ombudsman (20 complaints regarding discrimination on grounds of ethnicity and race were submitted to the Ombudsman). This can be explained in large part by low education, fear of police institutions and a lack of Roma community leaders.

Surveys also display a drastic rise in Islamophobia in recent years. 67% of respondents stated that their opinion towards Muslims became more negative during the past 15 years (compared to 49% in 2005⁵). The survey also revealed that society tends to highlight possible negative characteristics of Muslims and de-emphasise possible positive characteristics. 63% of the respondents associate Muslims with engagement in criminal activities (compared to 52% in 2005), 39% of respondents agreed that Muslims are hospitable (compared to 48% in 2005).

Negative attitudes towards Chechens and refugees have also risen compared to 2005. 57% of respondents stated that their opinion towards Chechens became more negative (compared to 56% in 2005). A similar percentage (54%) expressed negative opinions towards refugees (compared to 53% in 2005).

In this context, it is important to note results from the Eurobarometer survey 'Discrimination in the European Union' conducted in June and July of 2006⁶. According to the survey, discrimination based on ethnic origin or religious beliefs is perceived to be much less prevalent in Lithuania than in the EU generally. The survey revealed substantial disparities between Lithuanian and figures for the EU25 in that relatively small numbers of Lithuanians see being a person of a different ethnic origin (27% for Lithuania and 62% for the EU25) or of a different religion (21% versus 39%) as being a disadvantage. Given contradictions with this and the previously cited national surveys, it may be presupposed that the difference in figures can be the result of the lack of general understanding and knowledge of discrimination in Lithuanian society.

⁴ Žmogaus teisių stebėjimo institutas, Romų padėties analizė 2005, http://www.hrmi.lt/downloads/structure//Romu_padeties_analize_20050330.pdf, accessed 15 April 2007.

⁵ Socialinių tyrimų instituto Etninių tyrimų centras, Etninis nepakantumas 2006, <http://www.ces.lt/downloads/structure/files/apklausa.pdf>, accessed 20 April 2006.

⁶ Eurobarometer, *Discrimination in the European Union*, http://ec.europa.eu/public_opinion/archives/eb_special_en.htm, accessed 18 April 2007.

Most of the Asylum seekers in 2006 were under 18 (39%) and coming from Chechnya (77%). It is important to note that in Lithuania social rights are generally granted only to citizens and persons having a permanent residence permit. Asylum seekers, who are granted subsidiary protection and a temporary residence permit after the period of social integration, are left outside of the social security system. Asylum seekers with special needs (women, children, elderly, traumatized and disabled people) placed in the Foreigners Registration Centre remain in a poor social environment surrounded by uniformed border guards and next to detained illegal migrants. Poor environment and the lack of services can hardly be viewed as suitable for asylum seekers who often have to wait a long time for a decision on their applications or for appeals.

The situation of racism against Jews could be mentioned as a separate case, since anti-Semitic overtones appear in various forms on a regular basis and are sometimes expressed in the media. This issue was also raised by CERD in its latest observations⁷. Right-wing extremist groups (e.g. representatives of the Lithuanian National Democratic Party), although not numerous, quite regularly accuse the Jews as the cause of evil in public events. Cases of vandalism against Jewish cemeteries or Holocaust memorial sites are not rare in Lithuania.

⁷ Committee on Elimination of Racial Discrimination, *Observations on Lithuania*, <http://www.ohchr.org/english/bodies/cerd/>, accessed on 15 March 2006.

4. Manifestations of racism and religious discrimination

4.1 Employment

Firstly, there is a significant lack of recent statistical data with regard to unemployment among ethnic minorities in Lithuania. The Statistics Department under the Government of Lithuania stopped collecting unemployment data by ethnicity at the end of 2003, but the data of previous years indicate that ethnic minorities tend to suffer higher unemployment. Compared with the general level of unemployment in 2003 (12.4%), the unemployment rate among Lithuanians was 11.7%, Russians 18.7%, and Poles 13.9%.⁸ Considering that the general level of unemployment has dropped significantly since, these numbers cannot be considered accurate in 2006. However, disparities still exist and are partially predetermined by educational attainment differences and geographical concentration of non-Lithuanians in areas which are less developed socially and economically.⁹

Example of NGO good practice

A positive example of civil society action in the field of employment is an **EQUAL project** on 'the **establishment and testing of support mechanisms for the integration of national minorities into the labour market**', launched by The House of National Communities. The project aims at to promote the implementation of mechanisms for the integration of national minorities residing in Lithuania into the labour market, as well as the establishment of co-operation networks of NGOs that directly take part in the integration process, and to raise the qualifications of NGO personnel that take part in this process¹⁰.

In the framework of this EQUAL project, a research on the unemployment of ethnic minorities in the Vilnius and Salcininkai regions was carried out from March to July 2006. More than 600 unemployed ethnic minority representatives were surveyed. According to the research results, a significant percentage of minorities suffer from long-term unemployment (47.2% indicated being unemployed for more than 25 months)¹¹, although most of them are reasonably well-educated (76% have basic or higher education).

The biggest obstacle for successful integration into the labour market was indicated as a lack of state language knowledge (55.2%) and a lack of computer literacy skills (31.6%). Most of the representatives indicated

⁸ Beresnevičiūtė, Vida, 'Etninių grupių socialinės integracijos dimensijos šiuolaikinėje Lietuvos visuomenėje', in Etniškumo studijos / Ethnicity Studies 2005, (Vilnius: Socialinių tyrimų institutas, Eugrimas), 140.

⁹ Centre for Strategy and Evaluation Services and Public Policy Management Institute (2004) Ex-Post Evaluation (and Dissemination of Findings) of EU Support to National Minorities in Lithuania 1993-2003. Evaluation report, Vilnius.

¹⁰ More information about the project can be accessed at <http://www.tbn.lt/en/index.php?id=24>.

¹¹ Tautinių mažumų namai, Tautinių mažumų integracijos į darbo rinką galimybių tyrimas, http://www.tbn.lt/web_doc/informacija.doc, accessed 26 April 2007.

willingness to improve their language skills (61%), however 69% claimed that there are no opportunities available to do so.

Concerning Roma employment, the Human Rights Monitoring Institute released a research paper *Roma Discrimination in Employment*.¹² Although it does not provide statistics, the conclusions are based on the analysis of various sources and maintain that Roma unemployment surpasses the national average several times. Roma face systematic discrimination in employment: due to the negative attitudes of employers, it is impossible to compete for vacancies in the labour market on equal terms with other candidates. Even employed, they are paid less and have worse working conditions. Negative stereotypes about Roma among the majority include the idea that Roma do not want to work, although the majority of them wish to be employed.

There are no actual statistics on the issue of unemployed Roma. Still there is no doubt that most of them are unemployed. According to the latest research on Roma in the Vilnius region conducted in 2001, 50% of men and 70% of women identified themselves as unemployed and only 7% had a profession¹³. Thus it is clear that most of them do not have a steady income except for social allowances. Most Roma earn an income through temporarily work (in the market, for instance) or even through criminal activities. In analysing the situation of Roma in the labour market, the starting point is to ascertain the primary reasons for the low level of employment. 38% of Roma have no knowledge of Lithuanian and the level of illiteracy among Roma is very high. Many Roma do not have identification documents and do not have Lithuanian citizenship.

In 2006 the municipality of Vilnius made efforts to reduce the unemployment of Roma in the Vilnius Kirtimai district, but did not manage achieve substantial results.

Example of NGO good practice

A positive initiative for the integration of asylum seekers into the labour market was implemented by the Lithuanian Red Cross together with the Refugee Reception Centre and the Vilnius University Legal Clinics. The '**consolidated assistance to persons granted asylum**' was financed by the European Refugee Fund. The main idea of the project is to assist refugees during the period of social integration, and to build the foundation of workplaces and the preparation of employment search centres, etc.¹⁴

4.2 Housing

¹² Žmogaus teisių stebėjimo institutas, Romų diskriminacija užimtumo srityje, http://www.hrmi.lt/admin/Editor/assets/Romai_diskriminacija_II%202_2_.pdf, accessed 30 April 2007.

¹³ Žmogaus teisių stebėjimo institutas, Romai: situacijos apžvalga, http://www.hrmi.lt/downloads/structure//Romu_padeties_analize_20050330.pdf, accessed 3 May 2007. There is no information that suggests the situation has significantly improved since then.

¹⁴ More information about the project can be accessed at http://tc.nrd.lt/wt_pab/action/load?url=/jsp/news.jsp&id=25.

There is no sufficient data to assess the access of ethnic minorities to housing. More research has been implemented regarding this issue with the Roma community. The Roma community living in the Vilnius Kirtimai district face a lot of problems concerning housing. First of all, their low standard of living means that housing conditions are of unsatisfactory standing. Secondly, most of Roma houses in the Vilnius region are illegally built so there are no possibilities to sell or change their property. Furthermore, the infrastructure of the settlements as a whole is unsatisfactory.

Commonly, state institutions do grant social accommodation for the Roma. Still, given that the existing quality of social housing, it is doubtful whether social accommodation will improve the living conditions of the Roma people. The financial resources of municipalities' social accommodation funds are not adequate to meet the existing needs of residents.

4.3 Education

Lithuania has a relatively well-developed infrastructure for minority education, including primary and secondary education in minority languages. Education at the tertiary level is predominantly carried out in Lithuanian. During the school year 2005-2006, 165 regular schools teaching in the languages of national minorities were functioning in Lithuania.¹⁵ The statistics for the last five years show that both the number of schools and the number of schoolchildren are constantly decreasing, which is a particularly sensitive issue for Russian and Polish minority communities. The decrease relates to the general demographic situation as well as to reform of the education system. However there is not much debate about the quality of the education in minority and majority schools. The Centre of Ethnic Studies maintains that the majority and minority schooling systems remain somewhat segregated subsystems, minority schools lagging behind majority schools in achieving greater variety in school types and curriculum development.¹⁶

According to the latest research, the Roma community suffers from the lowest educational attainment rates.¹⁷ Education continues to pose the most serious problems for the Roma community, since the proportion of young Roma failing to complete basic schooling is much higher than in other minorities. Despite various measures applied by the State in order to increase the level of integration, attitudes in society toward the Roma community are negative and condition discriminatory actions in all fields of life. No special approach by public education institutions is taken towards Roma education.

Among the Roma, a high rate of illiteracy prevails and there are very few who obtain a diploma. The Roma have the highest illiteracy rate according to the

¹⁵ Tautinių Mažumų ir Išeivijos Departamentas prie Lietuvos Respublikos Ministerijos, Švietimas, http://www.tmid.lt/index.php?page_id=397, accessed 16 May 2007.

¹⁶ Centre for Ethnic Studies Institute for Social Research, RAXEN NFP, *National Annual Report 2004 - Lithuania*, http://www.ces.lt/downloads/structure/files/Nat%20Rep%202004%20Exe%20summary_Eng.pdf, accessed 23 May 2007.

¹⁷ Department of Ethnic Studies, Institute for Social Research, RAXEN NFP, *Roma in Public Education* (November 2004), http://www.ces.lt/downloads/structure/files/Roma_Lithuania.pdf, accessed 3 June 2007.

latest census (2001) - as many as 31 illiterate persons per every 1,000 Roma aged ten and over. Among other ethnic groups, this index ranges from 1.3 to 4.0. 38% of Roma people do not know the state language. Compared to other minority communities where it is the lack of state language proficiency is much more common among the older generation than the younger generation, the situation with Roma community is adverse as there is a common lack of state language proficiency among the youth. The Human Rights Monitoring Institute states that this may indicate that segregation has deepened during the last decade.¹⁸ This raises serious concerns, since 46% of Roma in Lithuania under the age of 20 (compared to the state average of 27%). The lack of state knowledge is one of the biggest obstacles to integration in the labour market.

There are no precise official statistics on how many Roma pupils attend school. However, data provided by NGO's and schools suggests that there is a positive tendency towards more and more Roma attending schools. However, many Roma start attending school late and this contributes to dropping out and low attendance.

That national education institutions are not always sensitive towards minorities can be well illustrated by a case of discrimination in education on the grounds of religion and beliefs. In 2006, the Equal Opportunities Ombudsman received an anonymous complaint alleging discrimination on the ground of religion during high school graduation state examinations of the English language¹⁹. During the examination pupils were tasked to write an informal letter to a hypothetical friend living abroad (Taiwan), explaining Lithuanian celebrations that are not national holidays in Taiwan, for example All Saints Day and Christmas Eve. Pupils were asked to write a letter of 140 – 160 words explaining these holidays as well as what they personally meant to each of them. The complainant claimed that some of the graduates faced difficulties completing the task because one could not simply write 'these holidays do not mean anything to me' if that person was Muslim, Orthodox or not religious. Thus pupils were forced to invent supposed meanings in order to complete the task successfully. While other pupils did not face such problem as they were Christians and those celebrations for them were associated with this affiliation.

The Equal Opportunities Ombudsman investigated the complaint and agreed that pupils of Christian belief were placed in a privileged position compared to the others because the requirement to write 140-160 words expressing personal relation with Christian holidays was too difficult for a person of different religious beliefs. This task requirement indirectly discriminated graduates of non-Christian beliefs, breaching the Law on Equal Treatment. The National Examination Centre was recommended to ensure equal opportunities and non-discrimination in education by avoiding topics related to ethnicity, religion or beliefs of particular group of students.

¹⁸ Žmogaus teisių stebėjimo institutas, Romai: situacijos apžvalga, http://www.hrmi.lt/downloads/structure//Romu_padeties_analize_20050330.pdf, accessed 3 May 2007.

¹⁹ Lygių galimybių kontrolieriaus tarnyba, Lygių galimybių kontrolieriaus veiklos ataskaita 2006, <http://www.lygybe.lt/static.php?strid=1499>, accessed 25 May 2006.

4.4 Health

Despite the fact that national legislation does not discriminate against ethnic or religious minorities in the field of healthcare, certain communities are still vulnerable to discrimination. A high number of Roma who are unemployed do not have access to healthcare services because as they are unemployed, they do not pay social contributions. According to the law, persons who do not pay the obligatory social insurance payments can not apply for free healthcare services. In case of illness, people who are not insured through the obligatory social insurance can only expect free services for first aid.

According to the Law on Health Insurance, state paid health insurance is provided to all foreigners working in Lithuania, to all foreign unaccompanied minors and to the most vulnerable foreigners granted subsidiary protection or temporary protection (i.e. children, single parents, pregnant women, particularly ill persons and persons at the age retirement). Other foreigners without a permanent residence permit do not have the right to avail of health insurance paid by the State.

A very low level of health assistance is guaranteed to asylum seekers and illegal migrants residing in the Foreigners Registration Centre. The medical unit, located in the Foreigners Registration Centre, provides only necessary health care services, while access to hospitals and specialists services is available only in emergency cases. Neither psychological nor mental health services are available in the Centre.

4.5 Policing and racial profiling

Unofficial data indicates that there were at least a few cases of the use of racial profiling in practice. Racial profiling mainly affects third country nationals (though sometimes EU citizens as well) of non-white ethnic origin arriving in Lithuania coming from specific countries. These persons face 'special' attention by border officials when entering Lithuania even when they are citizens of an EU country. However it is not clear whether officials are acting in this manner due to specific regulations from the State or due to prejudice and a lack of professionalism on an individual level.

Although no official complaints were registered it is highly possible that Roma may also be affected by racial profiling used by the police. Since Roma are the minority group most criminalised in press, they may be treated as suspects more often just because of stereotypes about their ethnic origin.

4.6 Racist violence and crime

Generally speaking, violent attacks with racist motives are relatively rare in Lithuania, however, according to experts, unofficial data indicates that extreme right-wing movements, including skinhead movements, are gaining strength and this will be an issue of concern in the near future if appropriate measures are not taken to address it now.²⁰ According to unofficial data the number of violent racist attacks increased in 2006. Much more frequent criminal activities include cases of incitement (in the media or in demonstration of anti-Semitic or racist sentiment in public) and vandalism and desecration acts on Jewish cemeteries and holocaust memorials.

It must also be mentioned, that committing of an offence with a racist motivation or aim is not yet considered an aggravating circumstance by the Criminal Code.²¹

According to official statistics, the number of racially motivated incidents and incitement to hatred cases significantly increased in 2006. According to the general statistics on criminal offences in 2006 of the Centre for Crime Prevention in Lithuania²², 17 pre-trial criminal investigations were started on the basis of incitement to hatred against national, racial, ethnic, religious or other groups of residents (compared to only two registered cases in 2005), but none of the cases were delivered to the court in 2006. However, 84 pre-trial investigations were started regarding desecration of graves (Article 312, Part 1 of the Criminal Code) and desecration of graves motivated by race, ethnic background or religion (Article 312, Part 2 of the Criminal Code), but only 12 cases were delivered to the court.²³ These results differ significantly compared 2005, when 103 such criminal activities were registered and 41 of the cases were delivered to the court. No criminal investigations were started regarding severe discriminatory behaviour on the basis of ethnicity, racial belonging or religion.

Although significantly more criminal investigations were started on the basis of Criminal Code articles prohibiting racist violence and crimes, the efficiency of pre-trial investigation institutions (police) to bring cases to court decreased. This raises serious concerns about the competence of authorities dealing with racist violence and crimes.

Some of specific cases of racist violence and crimes are important to mention. On 11 March 2006, a group of seven skinheads attacked a man of Turkish nationality and a black French man. The authorities managed to arrest three suspects. But according to the national laws, those arrested were given permission to conciliate with victims by compensating damages and the case was not brought to the court.

²⁰ Kiaulakis, Giedrius, 'Dešinysis ekstremizmas Lietuvoje', in Socialinių tyrimų instituto etninių tyrimų centras, Etniškumo studijos 2006/1 (Vilnius: Eugrimas, 2006), 76.

²¹ However, this may change in 2007. See the section on 'Criminal Justice'.

²² Informatikos ir ryšių departamentas prie Vidaus Reikalų Ministerijos, Duomenys apie padarytas nusikalstamas veikas Lietuvos Respublikoje per 2006 sausio – gruodžio mėn. <http://www.nplc.lt/stat/atas/ird/1g/2006/1g200612.htm>, accessed 3 June 2006.

²³ However only some of these cases involved racist motive; usually vandalism in Jewish cemeteries. As cases of vandalism in cemeteries usually take place in remote areas, they are rather complicated to investigate and it is difficult to find the persons responsible.

In September 2006, a Chinese man working as a cook in a restaurant was attacked by a group of skinheads in Klaipėda²⁴. The same month a Chinese man was attacked in Vilnius²⁵.

In June and October 2006, gravestones were demolished in the Vilnius Jewish cemetery and in September 2006, a Jewish memorial was desecrated in Vilnius. In the same month, a beer-pub in Kaunas celebrating its 10th anniversary in the city of Kaunas used Nazi symbols as decorations in its celebration show and have man dressed as Adolf Hitler welcoming and entertaining customers.

4.7 Access to goods and services in the public and private sector

National law does not make any distinction between goods and services provided publicly and those available privately. Article 6 of the Law on Equal Treatment regulates this situation. When implementing equal treatment, the salesperson, manufacturer of goods or service provider must create equal conditions for all consumers, regardless of their age, sexual orientation, disability, racial or ethnic origin, religion or belief. This includes equal conditions to obtain the same products, goods and services (including housing), and applying equal pay terms and guarantees for the products, goods and services that are the same or of equal value. When advertising or providing information on products, goods and services, they must ensure that there be no humiliation, insult, restriction of rights or granting of privileges based upon racial or ethnic origin, religion or beliefs (and other grounds) and no formation of public opinion about the superiority or inferiority of a person due to the latter grounds²⁶.

There is no reliable statistical data on whether in the area of access to goods and services ethnic minorities in Lithuania are facing recurring difficulties. However, members of national minority communities who do not know the state language may encounter some problems. In the area of access to services in the public sector, it is quite common that people who do not know the state language do not obtain all the necessary information. Translation services are quite expensive. According to the Law on Public Administration²⁷, all administrative procedures are carried out in the state language. Article 29 of this law obliges the institution which executes the administrative procedure to invite a translator if the person does not know the state language. The state also guarantees free translation services during court hearings.

However, according to the unofficial data from NGO's there is a realistic possibility that Roma do face discrimination in accessing goods and services in everyday life. There were also some cases when dark-skinned students on

²⁴ Delfi, Kinų virėją mušė skustagalviai, <http://www.delfi.lt/news/daily/crime/article.php?id=10730965>, accessed 26 June 2007.

²⁵ Delfi, Vilniuje kinas tapo jaunųjų nacistų taikiniu, <http://www.delfi.lt/archive/article.php?id=10590663&%20category-ID=7&ndate=1157317200>, accessed 26 June 2007.

²⁶ The Law on Equal Opportunities, Valstybės Žinios, No. 114-5115 (2003).

²⁷ The Law on Public Administration, Valstybės Žinios, No. 60-1945 (1999).

the 'Erasmus' exchange programme coming from France, Turkey and other countries were discriminated against by private persons while trying to secure rental accommodations. However, these cases were not officially registered (neither at court, nor at the Office of the Equal Opportunities Ombudsman).

Additionally, there is no case law on the subject of racism and discrimination in access to goods and services. Only one complaint regarding discrimination in access to goods and services was registered and investigated at the Office of Equal Opportunities Ombudsman. This case is a good example explaining the state of multiculturalism in Lithuania and the attitude of society to people belonging to 'other racial groups.

On 4 February 2006, a complaint, concerning possible discrimination on the ground of race was received at the Office of the Equal Opportunities Ombudsman. The complainant alleged that a company 'Tarp Gėlių' offering flower delivery service, charged much higher fees for delivery services provided by dark-skinned persons dressed as 'hussars', then for white 'hussars'.

During the investigation it was discovered that the flower shop 'Tarp Gėlių' took advantage of the racial situation in Lithuania. So far the number of dark-skinned people in Lithuania is rather small and the businessmen were charging more for services provided by a person of different complexion. The Ombudsman formally stated that in this particular case the white persons were placed in a disadvantaged position compared to dark-skinned persons. However, 'Tarp Gėlių' company did not pay dark-skinned persons larger salaries in this case, but rather took advantage of them to bring in larger profits. Thus the Ombudsman concluded that the company's behaviour could be considered disrespectful to both dark-skinned and white persons, as it promoted the idea of racial inequality. This is strictly forbidden by the Law on Equal Treatment and cannot be tolerated. The company was given a notice regarding the breach of the Law on Equal Opportunities and was requested to discontinue discriminatory practice.

4.8 Media, including the internet

Article 44 of the Constitution of the Republic of Lithuania prohibits censorship of mass media²⁸. However, Article 25 of the Constitution states, that freedom to express convictions and to impart information shall be incompatible with criminal actions - incitement of national, racial, religious, or social hatred, violence and discrimination, or slander and disinformation. There are other legal enactments prohibiting the abuse of mass media, including Lithuanian the code of ethics for Lithuanian journalists and publishers, adopted by the

²⁸ The official website of Seimas, The Constitution of the Republic of Lithuania <http://www3.lrs.lt/home/Konstitucija/Constitution.htm>, accessed 2 June 2006.

journalists and publishers themselves. However, anti-Semitic and racist statements still remain a serious issue in Lithuania.

It is important to note that during 2006, there were fewer cases of incitement or racist statements in the media, compared to previous years. Arguably the most prevalent case occurred in February, when one of the leading newspapers 'Respublika', notorious for its anti-Semitic and homophobic rhetoric reprinted notorious anti-Islamic cartoons previously published in the Danish newspaper 'Jyllands-Posten', despite recommendations by the Journalist Ethics Inspector and other institutions not to do so. The Inspector condemned this action²⁹ and stated that it was absolutely not necessary in democratic society, warning the editor of 'Respublika' to stop such provocative actions.

A detailed local press monitoring research was released in 2006 by the Centre of Ethnic Studies³⁰. Although it focuses on the period from 2004 to 2006 (the first quarter of 2006), it provides an overall picture of the discourse that exists in major press on ethnic minorities. According to the research, the number of articles on certain ethnic and religious groups increased during the study period, but the content and tone remained exclusively negative. The following groups are discussed in the media most frequently: Russians, Jews, Roma, Muslims and immigrants. These groups are mostly attributed negative characteristics and little attention is paid to the reality of their social situations. Information provided in the press remains one-sided, usually not consulting the minority's opinion and not allowing them to participate in the dialogue.

Russians are usually mentioned in the light of political context, especially in relation to the foreign policy of the Russian Federation, the denial of Soviet crimes towards Lithuania, etc. The press usually emphasises the picture of local Russians as politically active and loyal to the Russian state. Jews are usually discussed in political context as well, and in light of the restitution of real estate, presenting Jewish people as willing to take over property which does not belong to them. Roma people are the most criminalised social group in the local press. Most articles on the Roma focus on criminal activities (mainly drug dealing) and depict exhaustive images of their everyday life, presenting them as lazy, not willing to integrate and somewhat culturally and socially backward.

The topic of Muslims is relatively new to Lithuanian press. However, from a small and unnoticed community Muslims became 'visible'. International issues (such as terrorist attacks, anti-Muslim cartoons, etc.) obviously played a significant role in the increasing media attention towards Islam and Muslims. However, local press mainly emphasises 'otherness' and cultural differences of Muslims (migrants, Chechens, etc.) which is alleged to have negative effects on Lithuanian society.

²⁹ Lietuvos Respublikos Žurnalistų etikos inspektorius, Pareiškimas dėl dienraštyje 'Respublika' išspausdintų karikatūrų, 2006 m. vasario 8 d., http://www3.lrs.lt/pls/inter/zetika?r_id=4408&k_id=1&d_id=50811, accessed 10 May 2006.

³⁰ Beresnevičiūtė Vida, Frėjūtė-Rakauskienė Monika, 'Etninis nepakantumas Lietuvos žiniasklaidoje: dienraščių analizė', in Socialinių tyrimų instituto etninių tyrimų centras, Etniškumo studijos 2006/1 (Vilnius: Eugrimas, 2006), 19-43.

Internet media must be mentioned separately due to its specifics. Although major internet media portals usually reproduce articles published in print press, they also provide the immediate possibility for readers to comment on these articles online. Internet portals very rarely provide articles on the realities of the lives of ethnic minorities or on social issues³¹, rather articles emphasising social distance and stereotypes that are written in sensational or scandalous language are much more frequent online. According to experts, online articles about issues related to national minorities receive the most online comments from readers (after publications on politics and basketball). Comments are often straightforwardly negative and sometimes even explicitly racist.³² The research indicates that old stereotypes are widespread in internet comments showing no reference to social engagement.

³¹ Auškalnienė Lina, 'Etninis nepakantumas Lietuvos internetinėje žiniasklaidoje: komentarai internete', in Socialinių tyrimų instituto etninių tyrimų centras, Etniškumo studijos 2006/1 (Vilnius: Eugrimas, 2006), 45-58.

³² Madsen Gunar, 'Kaip lietuviai komentuoja straipsnius tautine tematika? Įžvalgos iš interneto komentarų' in Socialinių tyrimų instituto etninių tyrimų centras, Etniškumo studijos 2006/1 (Vilnius: Eugrimas, 2006), 60.

5. Political and legal context

Probably the most important development in the national policy against racism and discrimination was the adoption on 19 September 2006 of the National Anti-discrimination Programme for 2006 – 2008 by the Government of the Republic of Lithuania. The programme is aimed at awareness-raising on tolerance, equality and anti-discrimination, as well as research of manifestations of discrimination on all grounds, and development of national anti-discrimination legislation. In order to achieve these goals the programme provides several methodological measures and tools: awareness-raising and informational campaigns, research and surveys on discrimination, seminars and trainings on tolerance for state officials and stakeholders, and the analyses of national legislation prohibiting discrimination in the workplace. The latter can be considered as a very positive achievement since national legislation is still not in conformity with the EU Race Equality Directive.

Unfortunately however, civil society was not duly involved and consulted during the preparation of the programme. Thus some NGOs have criticised the measures of the programme concerning Roma and other vulnerable groups as not effective and not direct.³³

There were not many legal developments implemented in 2006. The Constitutional Court of the Republic of Lithuania made a significant improvement to legislation regarding citizenship. On 13 November 2006³⁴, the court ruled that certain provisions of the Law on Citizenship were discriminatory towards persons of non-Lithuanian origin and thus in a breach of the Constitutional equality clauses. A new draft Law on Citizenship is being discussed in Seimas (Parliament). In 2006, case law on discrimination on all grounds covered by the EU Equality Directives (including race, ethnicity and religion) remained non-existent.

5.1 Anti discrimination

The general principle of equality of persons is embodied in the Constitution of the Republic of Lithuania³⁵ and repeated in a number of laws (e.g. Civil Code of the Republic of Lithuania, Labour Code). However, the most important legal act dealing with anti discrimination is the Law on Equal Treatment³⁶, which came into force on 1 January 2005. Article 1 of this law states: *'this law is designated to ensure the application of the legal acts of the European Union, indicated in the Annex of this law'* (namely, the Directives 2000/43/EC and 2000/78/EC). Thus the Law on Equal Treatment covers the prohibition of

³³ Mickevičius Henrikas, Radvilaitė Asta, Samuolytė Jolanta, ed. board, Žmogaus teisių stebėjimo institutas,

Žmogaus teisių įgyvendinimas Lietuvoje 2006 Apžvalga (Vilnius: Eugrimas, 2007), 28.

³⁴ The Constitutional Court of the Republic of Lithuania Ruling on the Compliance of the Provisions of Legal Acts Regulating the Citizenship Relations with The Constitution of the Republic of Lithuania, 13 November 2006. Case No. 45/03-36/04, <http://www.lrkt.lt/dokumentai/2006/r061113.htm>, accessed 28 May 2006.

³⁵ The official website of Seimas, The Constitution of the Republic of Lithuania <http://www3.lrs.lt/home/Konstitucija/Constitution.htm>, accessed 2 June 2006.

³⁶ The Law on Equal Opportunities, Official Publication Valstybės žinios, 2003, No.114-5115.

discrimination on all grounds listed in Directives 2000/78/EC and 2000/43/EC. However, the Law on Equal Treatment failed to transpose the requirements of the directives in a significant number of crucial areas.³⁷

Firstly, the requirement of the EU Race Equality Directive regarding the engagement of associations in judicial proceedings on behalf of or in support of the victim has not been properly implemented in Lithuania. The criteria establishing a list of possible associations, which could engage in judicial or administrative procedures (having a legitimate interest), are not set in Lithuania. Under current legislation, legal representation by NGOs at court is impossible³⁸.

Secondly, The Law on Equal Opportunities of Women and Men, which also sets the procedure of investigation of complaints at the Office of the Equal Opportunities Ombudsman, describes the concept of shifting the burden of proof in cases of gender discrimination only. Thus, Individuals do not have this procedural guarantee in courts or other institutions with regards to discrimination on other grounds, including race, ethnicity, and religion.

Thirdly, the prohibition of victimization established in the Law on Equal Treatment does not correspond to the requirements set by the EU Race Equality Directive to prohibit not only discrimination of employees that directly file a complaint but other people involved as well. Thus Lithuanian laws formally do not provide protection to other people involved in discrimination cases from victimization by the employer.

Fourthly, the definition of discrimination in the Law on Equal Treatment has not been precisely transposed, compared to the text provided in the EU Race Equality Directive. This resulted in a narrowing of the material scope of the national law. The national wording signifies that the law does not cover protection from discrimination in cases of assumed characteristics. As there are not any other definitions of discrimination in other laws, persons are not protected from assumed or associated discrimination on all grounds, including race, ethnicity or religion.

Moreover, according to the EU Race Equality Directive, sanctions, which may comprise the payment of compensation to the victim, must be effective, proportionate and dissuasive. In Lithuania it is generally not the case that effective, proportionate and dissuasive sanctions in discrimination cases are applied. According to the Law on the Equal Opportunities of Women and Men, only persons whose rights were violated on the ground of gender have a right to demand compensation before the court as set by the Civil Code.

The Law on Equal Treatment established in 2005 an institution for the promotion of equality of persons, not only on the grounds of race or ethnicity, but also for other grounds. The law expanded the mandate of the previous

³⁷ Hopefully these drawbacks will be eliminated in 2007, since the Ministry of Social Affairs and Labour is said to be preparing a draft law amending the Law on Equal Opportunities. However at the time this report was written, there were no signs of progress in this respect.

³⁸ According to article 56 of the Code of Civil Procedure of the Republic of Lithuania, legal representation is exercised strictly by attorneys (with some exceptions only).

institution (The Ombudsman of Equal Opportunities of Men and Women). The Equal Opportunities Ombudsman supervises the implementation of the Law on Equal Treatment in the manner prescribed by the Law on Equal Opportunities of Women and Men. The Equal Opportunities Ombudsman promotes equal treatment of persons, undertakes educational activities about the implementation of the law in cooperation with local and international NGOs, and submits recommendations to State Government and administration institutions of the Republic of Lithuania on the revision of legal acts and policy priorities with respect to the implementation of equal rights. Additionally, it has the power to investigate complaints relating to direct and indirect discrimination and sexual harassment.

The establishment of the Equal Opportunities Ombudsman is positive, since the institution is designed to promote equality of persons on all grounds, covered by the anti-discrimination directives. However, while the Ombudsman was also given competence to investigate complaints on discrimination, the decisions of the Ombudsman do not have a compensatory effect to the victim. The Ombudsman has a right to impose administrative sanctions (according to the Administrative Violations Code), but they can hardly be considered effective, proportionate and dissuasive (especially for big companies or institutions). Additionally, the Ombudsman rarely exercises the issuance of fines as an administrative sanction in practice³⁹. In most cases, the decisions of the Ombudsman include mere recommendations. While perpetrators tend to observe the recommendations and usually stop discriminatory actions or behaviour, they or future perpetrators are not dissuaded in future actions.

In 2006 the Ombudsman investigated 20 complaints on discrimination regarding race or ethnicity; compared to 18 in 2005. There was a significant rise in the number of complaints regarding religion or beliefs; 7 complaints in 2006, compared to 2 in 2005.

5.2 Migration and integration

According to statistics provided by the Migration Department of the Lithuanian Ministry of Interior⁴⁰, the number of asylum applications received in 2006, (459 applications) was 10.7% higher than the number received in 2005, almost the same as in 2004 (458 applications) and 28.73% lower than in 2003 (644 applications). As in previous years, the majority of asylum applications were submitted from nationals of the Russian Federation (80.39% or 369 requests; of which 354 or 77.13% were received from Chechens). This figure has been stable for two years: in 2005, 342 applications and in 2004, 358 applications were received from nationals of the Russian Federation. The majority of asylum seekers in 2006 were young people under the age of 18 (39%) and people from 18 to 36 years old (43%); only 1% of asylum seekers were older than 60.⁴¹

³⁹ In 2006 only 2% of the total decisions were decisions to issue a fine as an administrative sanction.

⁴⁰ Hereafter referred to as the Migration Department.

⁴¹ Migration Department under the Ministry of Interior of the Republic of Lithuania, Annual Report 2006, <http://www.migracija.lt/index.php?-1629940453>, accessed 14 June 2007.

In its Third Report on Lithuania, adopted on 26 June 2005, the European Commission against Racism and Intolerance (ECRI) recommended that Lithuanian authorities ensure that all persons entitled to refugee status actually secure such status. Although ECRI noted that some progress has been made, the number of persons granted refugee status was still considered to be very low.⁴² In 2006, 12 asylum seekers (or 3% of all asylum decisions) were granted refugee status, 385 asylum seekers (86.7%) were granted subsidiary protection, and 29 persons were refused of any form of protection in the Republic of Lithuania. In Lithuania, the numbers of decisions to grant asylum are influenced by the fact that the majority of asylum seekers are of Chechen origin and with regard to them the *non-refoulement* principle is applied, i. e. they can not be returned to their country of origin due to serious human rights violations and absence of internal flight alternative⁴³.

ECRI also noted that all persons recognized as refugees obtained such status through the first instance decision issued by the Migration Department and that there was no decision of this type issued on appeal by the administrative courts. Furthermore, ECRI noted that since 2000 (until now) there have been no cases of recognition of female refugees who were the principal applicants⁴⁴.

The most significant legal development in the area of migration in 2006 was the amendment of the Law on the Aliens Legal Status, adopted on 28 November 2006. Article 113, Part 2 of the Aliens Law as amended, sets forth grounds for detention of foreigners, stipulating that a foreigner can be detained if he/she illegally arrived or stays in Lithuania except in cases when the person concerned has filed an asylum application. Thus, asylum seekers are exempt from detention on these grounds. Previous to the amendment, the Law on the Aliens Legal Status adopted on 29 April 2004, did not include this exception for asylum seekers.

According to Article 138 of the Aliens Law, as amended, an foreigner can lodge an appeal against an administrative decision with the relevant District Administrative Court within 14 days from the date of delivery of decision. Previous to the amendment, foreigners only had 7 days to file an appeal against administrative decisions taken within asylum procedures. Although prolonging the period for appealing can be welcomed as a positive development, in contrast, it must be noted that Article 33 of the Law on Administrative Proceedings sets a general one month time limit for a complaint to be filed with the administrative court. Thus the period for lodging a complaint against an administrative authority for foreigners is half the time afforded to local residents.

⁴² European Commission against Racism and Intolerance (ECRI), Council of Europe. *Third Report on Lithuania*, adopted on 24 June 2005. P. 27-28.

⁴³ Migration Department under the Ministry of Interior of the Republic of Lithuania, Annual Report 2006, <http://www.migracija.lt/index.php?-1629940453>, accessed 14 June 2007.

⁴⁴ European Commission against Racism and Intolerance (ECRI), Council of Europe. *Third Report on Lithuania*, adopted on 24 June 2005. P. 28.

Although in the view of the Lithuanian Government⁴⁵, the legal framework applicable to refugees and asylum seekers is in compliance with the existing international standards⁴⁶ as well as with the relevant European Union Council Directives, in several instances this is not the case. Firstly, the Lithuanian reception system might be characterized as being not in the line with Article 13, 14, 15, 17, 18, 20 and 24 of Council Directive 2003/9/EC⁴⁷ (explained below). Secondly, amendments to the Aliens Law adopted on 28 November 2006 failed to fully and properly implement Council Directive 2004/83/EC⁴⁸, despite stipulating that this directive is implemented.⁴⁹ Thirdly, in Lithuania a number of social rights are granted only to the citizens and persons having permanent residence permit. Asylum seekers, who are granted subsidiary protection and a temporary residence permit after the period of social integration excludes from the social security system; a situation which may be considered as non-compliance with Article 28 of Council Directive 2004/83/EC⁵⁰, as the State does not guarantee core benefits. This gap of social protection also demonstrates that the State does not guarantee a sufficient period of social integration to the foreigners granted subsidiary protection.

The Aliens Law provides that the Foreigners Registration Centre in Pabrade is the only accommodation facility for asylum seekers except for unaccompanied minors, who are accommodated in the Refugee Reception Centre in Rukla. The reception system might be characterized as being not in the line with Article 13, 14, 15, 17, 18, 20 and 24 of Council Directive 2003/9/EC⁵¹. Asylum seekers with special needs (for example, women, children, elderly, traumatized and disabled people) are in a very poor social environment surrounded by uniformed border guards and next to detained illegal migrants.

The nutrition system is centralized in the Centre and does not always secure religious or cultural dietary requirements. The medical unit, located in the Centre, provides only necessary health care services, while access to the hospitals and services of specialists is available only in emergency cases. Neither psychological, nor mental health services are available in the Centre.

During a follow-up visit, the delegation of the Commissioner for Human Rights visited the Reception Centre and observed that there was a medical facility with two doctors and three nurses open seven days a week, three hot meals per day were being served and bed linens were provided. However, basic

⁴⁵ This view was expressed when responding to the Memorandum 'Assessment of the progress made in implementing the 2004 recommendations of the Council of Europe Commissioner for Human Rights', issued by the Council of Europe Commissioner for Human Rights on 16 May 2007.

⁴⁶ For example, the 1951 Geneva Convention Relating to the Status of Refugees, the European Convention on Human Rights (ECHR) and the case law of the European Court on Human Rights.

⁴⁷ Council Directive 2003/9/EC of 27 January 2003 on laying down minimum standards for the reception of asylum seekers.

⁴⁸ Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.

⁴⁹ The provisions were implemented only on 4 May 2007 by the by-law adopted by the Ministry of Interior of the Republic of Lithuania.

⁵⁰ Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.

⁵¹ Council Directive 2003/9/EC of 27 January 2003 on laying down minimum standards for the reception of asylum seekers.

services, including social workers and psychological help were lacking. Although NGOs assist asylum seekers residing in the Centre, this could not be considered sufficient. In the Commissioner's view, such an environment can hardly be viewed as suitable for asylum seekers who often have to wait a long time for a decision on their applications or appeals and it is also not in the best interest of the child. The Centre thus should, in principle, not be used as reception centre for families with children. The Commissioner further expressed concern about the reported lack of services in the centre. He recommended that the Lithuanian authorities consider other solutions for the accommodation of asylum seekers and provide adequate services for them in line with agreed standards⁵².

As the services provided by the State for the asylum seekers are not adequate and in line with agreed standards, different NGOs assist asylum seekers residing in the Centre. From August to December 2006, the Lithuanian Red Cross implemented a project on 'Social Activities in the Foreigners Registration Centre' financed partly by the European Refugee Fund and the Lithuanian Government. The purpose of the project was to provide basic social services for asylum seekers. The partners of the project were the Foreigners Registration Centre and the NGO 'Vilniaus Arkivyskupijos Caritas'.

5.3 Criminal justice

5.3.1 Racism as a crime

Article 169 of the Criminal Code of Lithuania prohibits severe discriminatory behavior on the basis of various grounds including: *'A person who has committed acts aimed at a certain group or members thereof on account of their nationality, sexual orientation, race, gender, social status, origin or religion with a view to interfering with their right to participate as equals of other persons in political, economic, social, cultural or employment activity or to restrict the human rights or freedoms of such a group or its members, shall be punished with (a) community service work (b) a fine (c) detention or (d) imprisonment for up to 3 years.'*

Additionally, Article 170 of the Criminal Code also prohibits incitement against groups on various grounds: *'A person who, by making public statements orally, in writing or by using the public media, ridicules, expresses contempt of, urges hatred towards or encourages discrimination against a group of residents or against a specific person, on account of his or her gender, sexual orientation, race, nationality, language, ethnicity, social status, faith, religion or beliefs, shall be punished with (a) a fine, (b) detention or (c) imprisonment for up to 3 years.'*

⁵² The Memorandum 'Assessment of the progress made in implementing the 2004 recommendations of the Council of Europe Commissioner for Human Rights', issued by the Council of Europe Commissioner for Human Rights on 16 May 2007, <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=publisher&docid=465d38c52&skip=&publisher=COECHR>, accessed 3 June 2007.

Article 312 Part 2 of the Criminal Code provides for criminal liability for the desecration of graves for reason of race, ethnic background or religion and Article 171 of the Criminal Code prohibits the disturbance of religious ceremony of a state-recognised religious community. However, the latter article can be considered discriminatory since criminal responsibility is only envisaged for disturbing religious ceremonies of 'state-recognised' religious communities. According to Article 5 of the law on Religious Communities and Associations⁵³, only nine religions are recognised by the state. People who practice other religions cannot expect legal protection from the state if somebody disturbs their religious ceremonies.

However, despite the above-mentioned articles of the Criminal Code being in place, they cannot be considered to be effective in practice.

Statistics on hate crimes are rather poor due to the fact that motives (racial or any otherwise) are not included in pre-trial statistical cards used by the police⁵⁴. Thus it is not used as data for statistical information. According to the general statistics on criminal offences of the Centre for Crime Prevention in Lithuania, in 2006⁵⁵ no criminal investigations were started on the basis of Article 169 of the Criminal Code. However, 84 pre-trial investigations were started on the basis of Article 312 and 12 cases were brought to court. Moreover, 17 pre-trial criminal investigations were started on the basis of Article 170, but none of the cases were delivered to court. This raises serious concerns since the number of racially motivated incidents and incitement of hatred cases increased in 2006. The Human Rights Monitoring Institute stressed this in their report⁵⁶, stating that pre-trial institutions are investigating these cases in an ineffective and incompetent manner.

In its latest observations of 21 March 2006, the CERD Committee was concerned that the International Convention on the Elimination of All Forms of Racial Discrimination has never been applied by courts despite its direct applicability in domestic law and recommended relevant authorities to provide training to judges and lawyers on the issues⁵⁷.

The lack of experience, knowledge and competence of pre-trial institutions in cases of racism and incitement is obvious. In September a beer-pub 'Fortas' was celebrating its 10th anniversary in the city of Kaunas. During the celebration show Nazi symbols were used as part of decorations and a man dressed as Adolf Hitler welcomed and entertained customers. Despite protests by the Jewish community, some members of the Seimas (Parliament) and a deputy of the Kaunas Police Headquarters Commissioner publicly

⁵³ Law on Religious Communities and Associations, Official Publication, Valstybės Žinios No. 89-1985 (1995).

⁵⁴ Nusikalstamumo prevencijos Lietuvoje centras, Ikitėisminio tyrimo statistinės kortelės, <http://www.nplc.lt/stat/kort/kort.htm>, accessed 24 April 2007.

⁵⁵ Informatikos ir ryšių departamentas prie Vidaus Reikalų Ministerijos, Duomenys apie padarytas nusikalstamas veikas Lietuvos Respublikoje per 2006 sausio – gruodžio mėn. <http://www.nplc.lt/stat/atas/ird/1g/2006/1g200612.htm>, accessed 3 June 2006.

⁵⁶ Mickevičius Henrikas, Radvilaitė Asta, Samuolytė Jolanta, ed. board, Žmogaus teisių stebėjimo institutas, Žmogaus teisių įgyvendinimas Lietuvoje 2006 Apžvalga, (Vilnius: Eugrimas, 2007), 30.

⁵⁷ Committee on Elimination of Racial Discrimination, *Observations on Lithuania*, <http://www.ohchr.org/english/bodies/cerd/>, accessed on 15 March 2006.

expressed personal opinions that there was nothing improper or illegal with the use of Nazi symbols in a humorous manner⁵⁸.

Another example of police incompetence is a case of hate speech by a notorious extreme right-wing speaker Mindaugas Murza. Mr. Murza is a well-known leader of a right-wing extreme nationalist political party and has expressed anti-Semitic, homophobic and racist statements publicly on numerous occasions. In 2003, a group of people led by Mr. Murza disturbed the Menorah lighting ceremony by insulting the Jewish community and exhibiting anti-Semitic posters. The police investigated the case and brought charges against Mr. Murza on the basis of violations of Criminal Code, namely prohibition of incitement (Article 170) and prohibition of the disturbance of religious ceremony (Article 171). The investigation lasted almost 3 years and Mr. Murza was only sentenced in November 2006, with a fine for breach of Article 170. The charges on disturbance of religious ceremony, however, were removed due to the limit.⁵⁹

Thus there is an obvious need to improve the competence and capacities of police and other pre-trial institution officers dealing with racist crimes. Adequate training and awareness-raising activities are also needed for judges (especially working in the courts of first instance).

Committing an offence with a racist motive or aim is not yet considered as an aggravating circumstance by the Criminal Code. However, the National Anti-discrimination Programme for 2006 – 2008 provides for the drafting of an amendment that would introduce a provision to the Criminal Code that makes committing an offence with a racist motive or aim an aggravating circumstance. The Ministry of Justice must prepare the draft law by the end of 2007.

Another and more substantial legal development in this field was the ratification on 8 June 2006 of the first additional Protocol to the Convention on Cyber Crime of the Council of Europe concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems⁶⁰. The protocol came into force on 1 January 2007.

5.3.2 Counter terrorism

In its Third Report on Lithuania, adopted on 24 June 2005, ECRI concluded that the Law on Foreigners' Legal Status mainstreamed national security and public order considerations into all aspects of asylum and refugee law, including deliverance of residence permits, deportation and detention. The Law opened significant space for indefinite detention of those foreigners who

⁵⁸ Mickevičius Henrikas, Radvilaitė Asta, Samuolytė Jolanta, ed. board, Žmogaus teisių stebėjimo institutas, Žmogaus teisių įgyvendinimas Lietuvoje 2006 Apžvalga, (Vilnius: Eugrimas, 2007), 30.

⁵⁹ Delfi, M. Murzai ir jo bendražygiams – tūkstantinės baudos, <http://www.delfi.lt/news/daily/lithuania/article.php?id=11189269>, accessed 7 May 2007.

⁶⁰ Lietuvos Respublikos įstatymas Dėl Konvencijos dėl elektroninių nusikalstimų papildomo protokolo dėl rasistinių ir ksenofobinio pobūdžio veikų, padarytų naudojantis kompiuterinėmis sistemomis, kriminalizavimo ratifikavimo, birželio 8 d., Nr X-674.

are considered to pose a threat to national security or public order. The situation has not improved in this respect during the reporting period⁶¹.

5.3.3 Racial profiling

There is no official information available regarding the usage of racial profiling as a part of national security measures against terrorism. No public political discussions regarding this issue were noticed in 2006 and no official documents indicate that it may be the policy of the state.

5.4 Social inclusion

The actions of the Lithuanian Government towards social inclusion and the fight against discrimination are mainly outlined in 3 major documents: the Action Programme for the Integration of National Minorities into Lithuanian Society for 2005 - 2010, the National Anti-discrimination Programme for 2006 - 2008 and the National Action Plan to Fight Poverty and Social Exclusion for 2004 - 2006. Measures for 2005 - 2006 under the National Action Plan to Fight Poverty and Social Exclusion were outlined by the decision of the Government on 13 September 2005⁶².

The situation of minorities and migrants is taken into consideration rather well in all of these documents and major problems are clearly identified. The National Anti-discrimination Programme identifies the state and main causes of discrimination of ethnic minorities and foresees a significant number of measures to improve the situation. However, some NGOs criticised the measures of the programme, especially concerning Roma, as not effective and not direct⁶³.

Measures concerning minorities and migrants form a significant part of measures of the National Action Plan to Fight Poverty and Social Exclusion: resources are allocated to improve of the living conditions of refugees and asylum seekers, provide them with legal assistance, encourage the integration process, and implement the EQUAL project 'In Corpore', which can be considered a very positive initiative aimed at the integration of refugees in the labour market. On 8 August 2006, the Migration Department signed the trilateral grant agreement with the Ministry of Social Security and Labour and the Support Foundation European Social Fund Agency for receiving financial support for a project on 'Increasing the Efficiency of Asylum Procedure by Improving Reception Conditions of Asylum Seekers'. Implementation of the project started on 8 August 2006 and ended on 31 of December 2006. The main goal was to increase the efficiency of asylum

⁶¹ European Commission against Racism and Intolerance (ECRI), Council of Europe. *Third Report on Lithuania*, adopted on 24 June 2005.

⁶² The Decision of the Government of the Republic of Lithuania of 13 September 2005, No. 1002.

⁶³ Mickevičius Henrikas, Radvilaitė Asta, Samuolytė Jolanta, ed. board, *Žmogaus teisių stebėjimo institutas, Žmogaus teisių įgyvendinimas Lietuvoje 2006 Apžvalga* (Vilnius: Eugrimas, 2007), 28.

procedure, to improve reception conditions, and to improve performance of administrative functions related to the filing of asylum applications⁶⁴.

Unfortunately however, the financial resources for some particular governmental measures are clearly not adequate. Moreover, not all measures of the Nation Action Plan for 2006 were implemented. According to the Plan, a National Programme for Roma Integration into Lithuanian Society 2005 - 2010 should have been prepared by the end of 2006. At the time the present report was written such a programme still did not exist. Evaluation of overall situation indicates that either more resources should be allocated, or the quality of management of funding should be improved in order produce more sustainable positive results.

Specific funding initiatives to promote the social inclusion of ethnic minorities and the preservation of their cultural heritage as well as support ethnic minority NGOs, is mainly exercised through the Department of National Minorities and Lithuanians Living Abroad, which is the main governmental institution in the field. Although quite a significant number of ethnic minority NGOs' projects were sponsored, the department should improve its management capacities.

⁶⁴ Migration Department under the Ministry of Interior of the Republic of Lithuania, Annual Report 2006, 7.

6. National recommendations

6.1 General

- The Government should allocate substantial financial resources to raising awareness and fighting prejudice in society in order to stop the increase of intolerance and xenophobia;
- Comprehensive human rights education should be introduced in school curriculum, addressing stereotypes among young people;
- Full-scale statistics on the ethnic composition society and the situation of vulnerable groups should be collected by competent institutions;
- The Government should enhance sound social dialogue with ethnic minorities' organisations and NGOs dealing with anti-discrimination.

6.2 Anti discrimination

- The provisions of EU Race Equality Directive should be properly implemented in the Law on Equal Opportunities at the national level;
- The Equal Opportunities Ombudsman should be given more power in investigating complaints and use existing powers more rigorously.

6.3 Migration and integration

- The national reception system of refugees and asylum seekers should be put in line with requirements of the Council Directives 2003/9/EC and 2004/83/EC;
- The social environment and services for the asylum seeker at the Foreigners Registration Centre should be improved dramatically.

6.4 Criminal justice

6.4.1 Racism as a crime

- Committing an offence with a racist motive or aim should be introduced as an aggravating circumstance in the Criminal Code;
- Racist motives should be included into pre-trial statistical cards used by the pre-trial institutions, in order to get a comprehensive picture of racist crimes in Lithuania;
- The effectiveness and competence of pre-trial institutions dealing with racist crimes and violence should be improved by providing relevant training for law enforcement officials;
- Comments in the online news portals frequently express incitement as well as racist and anti-Semitic views, thus pre-trial investigation institutions should tackle this rigorously by legal means.

6.5 Social inclusion

- The National Programme for Roma Integration into Lithuanian Society should be prepared by the Government;
- The unemployment of ethnic minorities could be reduced by providing accessible state language courses for ethnic minorities (especially the older generation);
- A comprehensive assessment of education quality in non-Lithuanian speaking schools should be implemented.

7. Conclusion

From the civil society perspective, developments in Lithuania during 2006 can be viewed both negatively and positively.

On one hand, surveys demonstrate that the level of intolerance, Islamophobia and xenophobia has risen, contributing to an increase in racist violence and crime. The authorities were not competent and effective enough to deal with this issue. Steps must be taken to tackle racist crime and extreme right-wing movements, which are gaining strength. Furthermore, national legislation is still not in compliance with the European Union legal standards, particularly Council Directives 2000/43/EC, 2003/9/EC and 2004/83/EC.

On the other hand, a significant step was taken by the Lithuanian Government to address discrimination and social exclusion. The adoption of the National Anti-discrimination Programme 2006 - 2008 will hopefully contribute to raising awareness, improving national legislation and diminishing social exclusion of the most vulnerable groups. The foreseen access to comprehensive data will be very useful for evaluating the situation of vulnerable groups in all spheres of life.

A number of non-governmental organisations are working to address discrimination. Substantial projects were implemented by NGOs in order to improve the social integration of refugees and asylum seekers, and decrease the unemployment of ethnic minorities. However, the situation demonstrates that more initiatives are needed. The active role of civil society during a period of rising intolerance is crucial.

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