

## ***Council of Europe contribution for the 26<sup>th</sup> UPR session regarding Lithuania***

### **Prevention of torture (CPT)**

On 4 June 2014, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published the [report](#) on its visit to Lithuania which took place from 27 November to 4 December 2012. The [response from the Lithuanian Government](#) was also published on 4 June 2014.

In the course of the visit, particular attention was paid to the treatment of persons detained by the police and the conditions of detention in police arrest houses. The treatment and regime of prisoners, including life-sentenced prisoners, were also examined. In addition, a targeted visit was carried out to Vilnius Republican Psychiatric Hospital focusing on the application of means of restraint.

The vast majority of detained persons interviewed by the CPT's delegation in the course of the visit indicated that they had been treated correctly whilst in police custody. However, the delegation did receive a few allegations, including from juveniles, of excessive use of force (such as kicks and punches) by the police at the time of apprehension, after the person concerned had been brought under control. The Committee encourages the Lithuanian authorities to pursue their efforts to ensure that police officers use no more force than is strictly necessary when effecting an apprehension. Further, recommendations are made aimed at strengthening the fundamental safeguards against police ill-treatment.

As regards conditions of detention in the police arrest houses visited, the report highlights various shortcomings (e.g. limited access to natural light; non-partitioned in-cell toilets; filthy mattresses and blankets; etc.). In their response, the Lithuanian authorities refer to the ongoing and planned refurbishment of several police detention facilities as well as to plans to construct new facilities.

In relation to the prisons visited, the CPT's delegation received a number of consistent allegations of deliberate physical ill-treatment and of excessive use of force (consisting mostly of punches, kicks and truncheon blows) by certain prison officers at Alytus Prison. In some cases, the delegation gathered medical evidence which were consistent with allegations made. Some allegations of inappropriate use of truncheons were also received at Šiauliai Prison. As regards investigations into complaints of ill-treatment by prison staff, the CPT expresses serious misgivings about their effectiveness. Further, the Committee notes with great concern that there was a high level of inter-prisoner violence at Alytus Prison, partly attributable to the fact that only a small number of prison officers was present in prisoner accommodation areas during the day and even fewer at night or at weekends.

The report highlights a number of other issues of concern, such as poor material conditions of detention and serious levels of overcrowding in most of the establishments visited, an impoverished regime for remand prisoners, and insufficient health-care staff resources at Alytus and Lukiškės Prisons. Particular attention is paid to the situation of persons sentenced to life imprisonment.

The CPT stresses once again that there can be no justification for the systematic segregation of life-sentenced prisoners from other prisoners and urges the authorities to institute a process for integrating this category of prisoner into the general prison population.

In their response, the Lithuanian authorities refer to training programmes offered to prison officers on the use of physical force and special means. Further, information is provided on the steps being taken to combat prison overcrowding, including by placing emphasis on non-custodial measures for remand prisoners (such as electronic surveillance) and developing alternatives to imprisonment. Reference is also made to measures taken or envisaged to improve material conditions in the prisons visited as well as to plans to construct new prison establishments in Vilnius and Šiauliai.

### [Fight against racism and intolerance \(ECRI\)](#)

On 13 September 2011, the European Commission against Racism and Intolerance (ECRI) published its [fourth report on Lithuania](#).

The report welcomes the progress made since the third report, including the amendment of certain legislation to protect against discrimination in various areas of public life (e.g. citizenship, employment), as well as the improvement of laws and practices regarding asylum-seekers and refugees.

However, despite the positive developments, ECRI notes in the report that there remain some issues of concern. These concerns range from the inability of Lithuanian citizens who are not of Lithuanian ethnicity or origin to stand for presidential elections and issues regarding criminal provisions prohibiting discrimination (including rare use in practice, inadequate sanctions and inability of NGOs to represent victims) to insufficient collection of data on the application of criminal law provisions and other anti-discrimination legislation. The report also highlights problems with the operation of relevant public bodies, including narrow mandates and lack of coordination. Budgetary resource is underlined as a particular problem, including in the context of the newly-established department of minorities, and for programmes targeting the Roma community. Finally, ECRI notes that concerns remain with asylum procedures in Lithuania, for example the fact that few asylum seekers receive additional information on the asylum procedure and that persons granted subsidiary protection only benefit in general from emergency medical care; they do not have the right to social assistance.

In light of these issues, ECRI makes a series of recommendations to the Lithuanian authorities and requests that they take further action in a number of areas. It gives specific recommendations for how specific problems mentioned above, such as requirements for candidacy for the Presidency and criminal and asylum policies and procedures, should be reformed.

Three recommendations in particular were the subject of an [interim follow-up report](#) by ECRI, which was adopted on 19 March 2014. Regarding the first, on the topic of Roma integration, ECRI recommends that an institutional body on Roma issues be established, that coordination with the municipality of Vilnius in particular be enhanced, and that the Roma Integration Programme is guaranteed adequate funds. The interim report finds that although budgetary resources have increased, and an inter-institutional working group set up, coordination with the municipality of Vilnius remains unconfirmed as satisfactorily

operational, and the budget is insufficient to cover all of the costs incurred by the Action Plan for Roma Integration into Lithuanian Society. Secondly, specific recommendations are made regarding the training of law enforcement and legal officials, particularly that training should be regular and concern newly-introduced relevant provisions of the Criminal Code. ECRI notes that strategic progress made in this area – for example, the adoption of the Inter-Institutional Action Plan for Promotion of Non-Discrimination for 2012-2014 – but suggests that it might be desirable to increase further the number of training seminars offered to relevant actors. Finally, ECRI recommends that authorities adopt without delay a draft law extending access to social security to persons granted subsidiary protection, and that provision be made for financing the health coverage of all persons granted subsidiary protection. In its interim report, ECRI considers this recommendation fully implemented.

Link to ECRI reports and interim follow-up conclusions:

[https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Lithuania/Lithuania\\_CBC\\_en.asp](https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Lithuania/Lithuania_CBC_en.asp)

## Protection of minorities

### *Framework Convention for the Protection of National Minorities*

Lithuania has signed and ratified the Framework Convention for the Protection of National Minorities. On 28 November 2013, the Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities adopted its [Third Opinion on Lithuania](#).

The opinion concludes that there is a legislative gap which impedes the implementation of various aspects of the Framework Convention, especially those related to language rights, despite the inclusive approach towards the scope of application of the Framework Convention taken by the Lithuanian authorities.

Positive aspects of the opinion include the observation that minority representatives continue to be well-represented in Parliament. However, a major area of concern for the Advisory Committee is the socio-economic integration of Roma: the living conditions in the Kirtimai settlement are described as “particularly alarming”, for example. Furthermore, “frequent manifestations of discrimination and hostility against [Roma] in different spheres of public life reinforce the multiple levels of inequality.”

The Opinion also notes that “public and media debates on minority rights remain dominated by the politicisation of inter-ethnic relations, which creates an unfavourable environment for the adoption of recently developed draft legislation on national minorities.”

Among the issues of concern and recommendations laid down in the Opinion, the Advisory Committee identifies three issues for immediate action. Firstly, the Lithuanian authorities should adopt as soon as possible, and in close consultation with minority representatives, “a coherent legal framework for the protection of rights of persons belonging to national minorities, in particular regarding language rights”.

Secondly, regarding minority language schools, the authorities should ensure that they are adequately prepared and resourced so that the education reform underway can be implemented without negatively affecting the overall quality of education. Finally, Lithuania should attempt to combat the “continuing discrimination and social exclusion of Roma in all spheres of public life” by developing and implementing a comprehensive strategy, in close consultation with Roma representatives and involving all relevant actors.

On 10 October 2014, the Advisory Committee received [comments of the Government of Lithuania](#) regarding this Third Opinion.

### *European Charter for Regional or Minority Languages*

Lithuania has neither signed nor ratified the European Charter for Regional or Minority Languages (ECRML), despite the presence of historical minority languages on its territory.

### Action against trafficking in human beings (GRETA)

On 5 June 2015, the Group of Experts on Action against Trafficking in Human Beings (GRETA) published its [report](#) concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Lithuania, in the context of GRETA’s first evaluation round. The report makes a number of recommendations to the Lithuanian authorities.

Regarding the legal and institutional framework for combating trafficking in human beings, the report notes that the authorities have taken a number of steps of development including the adoption of relevant legislation and the establishment of co-ordination structures. However, it notes that there is no separate action plan on combating trafficking in human beings, and urges the authorities to correct this.

In terms of prevention and awareness-raising activities, GRETA considers that particular attention should be paid to raising awareness of new trends in human trafficking, that targeted prevention measures should be implemented for groups vulnerable to trafficking, and that the prevention of human trafficking should be integrated into policies to combat gender-based violence.

Finally, regarding provisions to assist victims, the report welcomes the increase in State funding to NGOs providing services to victims while also urging the Lithuanian authorities to strengthen efforts to provide support to victims such as adequate accommodation and medical and social assistance. As no victim has benefited from the “recovery and reflection period”, GRETA urges the review of the granting procedure and of how possible victims are informed of the period. It also urges the authorities to “adopt a clear legal and policy framework for the return of trafficked persons, with due regard to their safety and dignity.” Specific recommendations are also made regarding the provision of compensation, in particular that additional steps should be taken to facilitate access to compensation and that legislation which denies the possibility of compensation if no criminal proceedings are initiated is reviewed. Furthermore, the report considers that Lithuania should ensure that the provision ensuring the non-punishment of victims of trafficking for offences that they have been compelled to commit is applied in practice.

Finally, GRETA urges the strengthening of efforts to ensure the proactive investigation and effective prosecution of crimes related to human trafficking, including the effective application of provisions concerning the confiscation of traffickers' assets, improvement of training given to relevant bodies and officers and the full use of available measures to protect victims of trafficking, including the victim / witness protection programme.

[http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA\\_2015\\_12\\_FGR\\_LTU\\_en\\_w\\_cmn\\_ts.pdf](http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2015_12_FGR_LTU_en_w_cmn_ts.pdf)

[http://www.coe.int/t/dghl/monitoring/trafficking/Docs/CommitteeParties/Recommendations/CP\\_2015\\_4\\_LTU\\_en.pdf](http://www.coe.int/t/dghl/monitoring/trafficking/Docs/CommitteeParties/Recommendations/CP_2015_4_LTU_en.pdf)

### Preventing and combating violence against women and domestic violence

Lithuania has signed but not yet ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. For this reason, it is not yet concerned by the monitoring procedure under this Convention.

### Fight against Corruption (GRECO)

#### *Third Evaluation Round regarding "Incriminations" and "Transparency of Party Funding"*

On 27 June 2013, the [Second Compliance Report on Lithuania](#) regarding the above themes was published by the Group of States against Corruption (GRECO), following the recommendations made in the [evaluation reports](#) published on 17 February 2010 and a [First Compliance Report](#) published on 27 May 2011. GRECO concludes in the Second Compliance Report that Lithuania has implemented satisfactorily or dealt with in a satisfactory manner in total twenty of the twenty-one recommendations contained in the Third Round Evaluation Report. The recommendation that has not been dealt with satisfactorily (increasing the minimum fine for violations in the area of transparency of party and campaign financing) has nevertheless seen a draft law submitted to Parliament.

#### *Fourth Evaluation Round regarding "corruption in respect of members of parliament, judges and prosecutors"*

On 11 February 2015, GRECO published the [evaluation report on Lithuania](#) in respect of the Fourth Evaluation Round. The report notes that despite the comprehensive normative and institutional framework developed by Lithuania to prevent and fight corruption, the perceived levels of corruption in the country are nevertheless above EU members' average. The report therefore makes eleven recommendations to Lithuania, concerning for example communication, transparency and enforcement of existing rules, and invites the authorities to submit a report on the measures taken to implement them by the end of June 2016.

## Execution of judgments and decisions of the European Court of Human Rights

Currently there are 36 cases against Lithuania pending before the Committee of Ministers for supervision of their execution. 24 of these cases are “leading cases”, i.e. raising a new general problem and requiring the adoption of general measures, the other cases being “repetitive cases” concerning issues already raised before the European Court of Human Rights.

Three cases revealing complex problems are supervised under the enhanced procedure:

- The **L.** case concerns LGBT-rights, namely the state’s failure to introduce implementing legislation to enable the applicant to undergo gender reassignment surgery and change his gender identification in official documents (violation of Article 8). The CM’s latest examination of this case took place during the March 2015 DH-meeting. According to the latest information received from the authorities on 21 September 2015, a legislative draft proposal was to be presented to the Plenary of the Seimas at its autumn session in 2015. However, information received from NGOs indicates that on 28 September 2015 the Seimas postponed the consideration of the legislative package and returned it to the Ministry of Justice. The latter resubmitted a new proposal to the Government in November 2015.
- Another important issue concerning Lithuania is the **Paksas** case , in which the Court found a violation on account of the applicant’s permanent and irreversible ban from standing for elections to Parliament as a result of his removal from presidential office following impeachment proceedings in 2004 (violation of Article 3 of Protocol No. 1). The CM’s latest examination of this case took place during the March 2016 DH-meeting. The most recent information was submitted by the authorities in January 2016. In December 2015, the Seimas rejected the draft constitutional amendment, which would have enabled the applicant to stand in the upcoming parliamentary elections scheduled for October 2016. The Lithuanian authorities have informed the CM that it would theoretically still be possible to adopt the constitutional amendments during the spring session 2016, so as to enable the applicant to stand in the upcoming parliamentary elections. Information on the developments in this respect is awaited by 15 July 2016.
- The **Vasiliauskas** case concerns the applicant’s conviction for genocide of a political group by the retroactive application of criminal-law provisions which were not in force neither under domestic nor international law at the time of the impugned events in 1953, thus in violation of the principle “nullum crimen sine lege” (violation of Article 7). The authorities are expected to submit information by 20 April 2016 on execution measures taken or planned to be taken.

## Social and economic rights

As indicated in the [country factsheet](#) providing an overview of the accepted provisions of the Social Charter, Lithuania ratified the Revised European Social Charter on 29/06/2001. It has not accepted the Additional Protocol of 1995 providing for a system of collective complaints.

The monitoring of the implementation of the European Social Charter by the European Committee of Social Rights (ECSR) is thus based on the evaluation of national reports provided by the Lithuanian authorities on accepted provisions belonging to thematic groups (thematic monitoring cycles).

Please refer to the attached country factsheet containing the detailed 2012 ECSR Conclusions (covering the reference period 2007-2010) regarding the accepted provisions relating to Thematic Group 1 “*Employment, training and equal opportunities*”, and the detailed 2013 ECHR Conclusions (covering the reference period 2008-2011) related to Thematic Group 2 “*Health, social security and social protection*”.

In its 2014 conclusions (covering the reference period 2009-2012) on the relevant provisions relating to Thematic Group 3 “*Labour Rights*” (Articles 2, 4, 5, 6, 21, 22, 26, 28, 29 of the Revised Charter), the ECSR identifies 8 situations of non-conformity. These findings concern the right to just conditions of work (Art. 2§1: absence of reasonable working time for some categories of workers), the right to a fair remuneration (Art 4§1: absence of decent remuneration as the minimum wage applied to private sector workers does not ensure a decent standard of living, Art. 4§2: exceptions to the right to increased remuneration for overtime work, Art. 4§3: absence of a reasonable notice of termination of employment based on a judicial decision, Art. 4§4 : unauthorised deductions resulting in the absence of a fair remuneration of workers with the lowest pay), while also pointing to infringement to the right to bargain collectively (Art. 6§2: non-promotion of voluntary negotiations). Furthermore, the ECSR conclusions point to the ineffective protection against moral harassment (Art. 26§2: right to dignity in the workplace) and the insufficient protection of worker’s representatives as this protection does not extend to a period after the mandate (Art. 28).

Published in January 2016, the 2015 ECSR Conclusions (covering the reference period 2010-2013) on the accepted provisions pertaining to Thematic Group 4 “*Children, families and migrants*” identify 7 situations of non-conformity:

- Article 7§1 (*right of children and young persons to protection - prohibition of employment under the age of 15*) : non-conformity with the Charter on the ground that during school holidays the daily and weekly working time for children under 15 years of age is excessive and therefore cannot be qualified as light work.
- Article 7§3 (*prohibition of employment of children subject to compulsory education*) : non-conformity with the Charter on the ground that during school holidays the daily and weekly working time for children subject to compulsory education is excessive and therefore cannot be qualified as light work.
- Article 8§2 (right to employed women to protection of maternity – illegality of dismissal during maternity leave): non-conformity with the Charter on the ground that exceptions to the prohibition of dismissal of employees during pregnancy or maternity leave are excessively broad.
- Article 16 (*right of the family to social, legal and economic protection*): non-conformity with the Charter on the ground that family benefits are not of an adequate level for a significant number of families, and equal treatment of national of other States Parties with regard to the payment of family benefits is not ensure due to an excessive length of residence requirement.
- Article 17§1 (*right of children and young persons to social, legal and economic protection – assistance, education and training*): non-conformity with the Charter on the ground that corporal punishment is not prohibited in the home, in schools and in institutions.

- Article 31§1 (Right to adequate housing) : non-conformity with the Charter on the ground that measures taken by public authorities to improve the substandard housing conditions of most Roma are insufficient.
- Article 31§2 (Right to housing – reduction of homelessness) : non-conformity with the Charter in the absence of measures to prevent persons having lost their right to municipal subsidised housing to become homeless, of legal protection for persons threatened by eviction and of adequately guaranteed right to shelter.

Please find attached all detailed ECSR conclusions 2012, 2013, 2014 and 2015 regarding Lithuania.