

LITHUANIA ASSESSMENT

April 2000

Country Information and Policy Unit

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SCOPE OF DOCUMENT

1.1 This assessment has been produced by the Country Information & Policy Unit, Immigration & Nationality Directorate, Home Office, from information obtained from a variety of sources.

1.2 The assessment has been prepared for background purposes for those involved in the asylum determination process. The information it contains is not exhaustive, nor is it intended to catalogue all human rights violations. It concentrates on the issues most commonly raised in asylum claims made in the United Kingdom

1.3 The assessment is sourced throughout. It is intended to be used by caseworkers as a signpost to the source material, which has been made available to them. The vast majority of the source material is readily available in the public domain.

1.4 It is intended to revise the assessment on a 6-monthly basis while the country remains within the top 35 asylum producing countries in the United Kingdom.

1.5 The assessment will be placed on the Internet ([http://www.home office.gov.uk/ind/cipu1.htm](http://www.homeoffice.gov.uk/ind/cipu1.htm)). An electronic copy of the assessment has been made available to the following organisations:

Amnesty International UK

Immigration Advisory Service

Immigration Appellate Authority

Immigration Law Practitioners' Association

Joint Council for the Welfare of Immigrants

JUSTICE

Medical Foundation for the Care of Victims of Torture

Refugee Council

Refugee Legal Centre

UN High Commissioner for Refugees

II GEOGRAPHY

The Location of Lithuania

2.1 The Republic of Lithuania (formerly the Lithuanian Soviet Socialist Republic) is situated on

the eastern coast of the Baltic Sea in north-eastern Europe. It is bounded by Latvia to the north, by Belarus to the south-east, by Poland to the south-west and by the territory of the Russian Federation around Kaliningrad to the west. [1]

2.2 The population of Lithuania at 1 January 1999 was estimated at 3,701,253. The capital city is Vilnius. Other large towns are Kaunas, Siauliai and Panevezys. The official language of the country is Lithuanian.[1]

III HISTORY

A. Recent Political History

3.1 Lithuania's first Constitution, which declared Lithuania a parliamentary democracy, was adopted in August 1922. However, in December 1926 Antanas Smetona seized power in a military coup d'etat and established an authoritarian regime which lasted until 1940. The Nazi-Soviet Treaty on Friendship and Existing Borders agreed in September 1939 (following the outbreak of World War II) permitted the USSR to take control of Lithuania. In return, the USSR granted the city and region of Vilnius to Lithuania. In June 1940 the USSR dispatched yet further troops to Lithuania and forced the Lithuanian Government to resign. A Soviet-approved People's Government was then formed. Following the invasion of USSR by German forces in July 1941 around 135,000 (90%) of Lithuania's Jewish population were murdered. The return of Soviet forces in 1944 was not welcomed by most Lithuanians. Nevertheless, traditional features of Soviet rule were swiftly introduced into the country. Lithuanian political parties were disbanded and political power became the exclusive preserve of the Communist Party of Lithuania (CPL), the local branch of the Communist Party of the Soviet Union (CPSU). Some 150,000 people were deported and leaders and members of the Roman Catholic Church were persecuted and imprisoned. [1] [2]

3.2 A significant dissident movement was established during the 1960s and 1970s. There were demonstrations in Kaunas in May 1972 in support of demands for religious and political freedom. In June 1988, the Lithuanian Movement for Reconstruction (Sajudis) was established. It organised mass demonstrations to protest against environmental pollution, the suppression of national culture and "russification", and appealed to the CPL to support a declaration of independence and the recognition of Lithuanian as a state language. The latter demand was adopted by the Lithuanian Supreme Soviet (legislature) in November 1988, and traditional state symbols were restored. The CPL then began to adopt a more radical position in an attempt to regain some measure of popular support. Nevertheless, Sajudis remained the dominant political force, and its supporters won an overall majority in the elections to the Lithuanian Supreme Soviet in February and March 1990. This new pro-independence parliament elected Vytautas Landsbergis, Chairman of Sajudis as its Chairman (de facto President of Lithuania) and on 11 March 1990 declared the restoration of Lithuanian independence. Lithuania was the first of the Soviet republics to make such a declaration. The Lithuanian declarations were condemned by a special session of the all-Union Congress of People's Deputies as "unconstitutional" and Soviet (OMON) forces occupied the CPL buildings in Vilnius and took control of newspaper-printing presses. The Soviet Union imposed an economic embargo on Lithuania in April 1990 which remained in force until Lithuania agreed a six-month moratorium on the independence declaration, two months later. There was no further progress however until mid-January 1991 when 13 people were killed, and about 500 injured when Soviet troops seized the broadcasting centre in Vilnius. The military intervention strengthened popular support for independence. A referendum on the issue took place on 9 February 1991 in which 90.5% of the voters expressed support for the re-establishment of an independent Lithuania and the withdrawal of the USSR army. During the succeeding months the Soviet coup collapsed and the Lithuanian Government

took over control of more and more of the country until finally on 6 September 1991, the USSR State Council recognised the independence of Lithuania (as well as Latvia and Estonia) and the country was admitted to the UN and the Conference on Security and Co-operation in Europe later that month. Prosecutions of the organisers of the attempted coup were found guilty in August 1999 and six were sentenced to long periods of imprisonment. The remaining 51 defendants are still in hiding in Russia and Belarus.[17e]

3.3 The Conservatives prevailed in the 1996 parliamentary elections, followed by the Christian Democrats. The two parties formed a coalition government (the first in Lithuania's history). In February 1998 Valdas Adamkus was elected President by a narrow majority.[3]

3.4 In April 1999, Gediminas Vagnorius resigned as Prime Minister and was succeeded by Conservative Rolandas Paksas who in turn resigned in October making this the tenth government since 1991. Andrius Kubilius was nominated as Prime Minister on 29 October 1999. [4] [24d] Details of the current Government are at Annex A.

B. Economic History

3.5 Since independence, Lithuania has made steady progress in developing a market economy. Over 40% of state property, in addition to most housing and small businesses, has been privatised. Trade is diversifying and expanding both to the East and the West. The largest number of residents are employed in agriculture, followed by industrial enterprises and wholesale and retail trade. About 31.6% of those employed work for state enterprises. The banking system remains weak but laws on banking control and supervision are in place and a number of large private banks are undergoing outside audits. The inflation rate for 1999 fell to 0.5% [3a][24a]

3.6 During the early 1990s the government embarked upon a comprehensive programme of market-orientated reforms, including the transfer to private ownership of state-owned enterprises and the adoption of measures to encourage foreign investment. However, the increase in fuel prices and the disruption of trading relations with countries of the former USSR led to a severe decline in industrial productivity and a consequent deterioration in living standards. By the mid-1990s the government's stabilisation programme had achieved modest success: development of the private sector, initially through a voucher privatisation scheme, was well advanced, and by December 1995 approximately 83% of all state assets had been privatised; most prices were liberalised; reform of the legal system had been introduced; and some progress was achieved in the restructuring of the financial sector. Changes to the legislation governing the privatisation programme encouraged greater activity in 1997 and 1998. The budget for 1999, approved by the Seimas in December 1998, envisaged a balanced account based on predictions of GDP growth of 5.5% and an average rate of inflation of 5% for that year. [1]

3.7 By the beginning of April 1999 unemployment in Lithuania had reached 8.5%. It was still rising in November 1999.[24e] One of the reasons given for this was the economic crisis in Russia and Belarus with whom Lithuania maintains close economic ties.[5a]

C. The 1996 Parliamentary Elections:

3.8 The last parliamentary elections in Lithuania took place in November 1996. The next elections are not due until the year 2000. Twenty-four parties officially registered to participate in the Lithuanian general election - see Annex B for details. Zenonas Vaigauskas, the chairman of the Central Electoral Commission, described the elections to the Lithuanian Seimas as democratic, free and fair. [6a]

3.9 On 20 November 1996 the TS(LK) and the LKDP signed a coalition agreement which involved their participation in government in accordance with their relative numbers legislative seats. On 27 November 1996 the Seimas voted overwhelmingly to confirm Vagnorius as Prime Minister, a post which he had previously held between January 1991 and July 1992. Vagnorius was replaced as Prime Minister in April 1999 by Rolandas Paksas who resigned 5 months later. He was succeeded by Andrius Kubilius.[7a] In February 1998 Valdas Adamkus was elected President. [3a]

IV INSTRUMENTS OF STATE

A. The Lithuanian Government

4.1 Under the terms of the Constitution [23] which was approved in a national referendum in October 1992, supreme legislative authority resides with the Seimas which has 141 members elected by universal adult suffrage for a four-year term. The President of the Republic (who is Head of State) is elected by direct popular vote for a five-year period and a maximum of two consecutive terms). Executive power is vested in the Council of Ministers. This is headed by the Prime Minister, who is appointed and dismissed by the President with the approval of the Seimas. For administrative purposes, Lithuania is divided into 10 districts (sub-divided into 56 municipalities). [1]

4.2 The Parliament has continued to operate in a satisfactory way. Its powers are respected and the opposition plays a full part in its activities. In September 1997, a European Affairs Committee was established at the Seimas. [8a]

4.3 Lithuania continues to make progress in the field of Public Administration and the Seimas passed a law on 8 July 1999, determining the principles of public service, the status of a public servant and the legal foundation for the country's public service system. People who have a criminal record or persons who had previously been employed by the Soviet KGB cannot seek posts in the Lithuanian public service system. The law is to be implemented in full in two – five years. [9a] In October 1999 the Seimas adopted a universal vetting law on the registration and protection of persons who had confessed to their participation in the activities of Soviet secret services in the period from 1940-90.[24b]

B. Political Organisations

4.4 All parties and movements in Lithuania have to register with the Ministry of Justice. Before registering they have to present a statute describing their activities. These activities must not contradict the Lithuanian Constitution or legal system. [6(m)]

4.5 The main political organisations are listed at Annex C.

The Communist Party:

4.6 Under Soviet (communist) rule some 150,000 Lithuanians were deported and the leaders and members of the Roman Catholic Church were persecuted and imprisoned. Lithuanian political parties were disbanded, and political power became the exclusive preserve of the Communist Party of Lithuania (CPL), the local branch of the Communist Party of the Soviet Union (CPSU). [1]

4.7 In the late 1980's the independence movement gathered momentum and by 1989 the CPL had begun to adopt a more radical position in an attempt to retain a measure of popular support. [1]

4.8 In December 1989, the CPL declared itself an independent party, no longer subordinate to

the CPSU. Shortly afterwards, a group of CPL members who were opposed to independence formed a separate movement, the pro-Soviet LCP (Lithuanian Communist Party), which was later involved in the 1991 attempted coup when Soviet tanks killed 14 unarmed civilians [1] [11a]

(see also Annex D, "Chronology of Key Events" and Section III, "Recent Political History").

4.9 On 13 January 1991 the LCP, as a branch of the CPSU, organised and initiated a coup designed to overturn the Lithuanian Government, and by force destroy the independence, sovereignty and territorial integrity of the Republic of Lithuania. On 19 August the LCP attempted to carry out the instructions of the Moscow coup plotters. [11a] By doing this the LCP (CPSU) acted against the Constitution and laws of Lithuania and against international norms. In August 1991, as the Soviet coup collapsed, the Supreme Council of the Republic of Lithuania banned the LCP after deciding: "to admit that the illegal activity of the LCP (CPSU) continues and therefore to ban activity of the LCP (CPSU) in the territory of the Republic of Lithuania". [11a]

4.10 The successor party to the CPL, the LDLP (Lithuanian Democratic Labour Party), which was founded in 1990 and many of whose members used to belong to the Communist Party, was not banned and went on to form the government after the first post-independence general election. Some of the LDLP's current political opponents (such as the ruling Conservative Party) still tend privately to label them as Communist. [1] [11a]

4.11 However, it should be noted that the Communist Party, although not officially registered, certainly exists. It is engaged in underground activity that is considered illegal. [11b]

4.12 In August 1999 a court found six persons guilty of complicity in the January 1991 coup attempt. They were sentenced to terms of imprisonment from 3 – 12 years for crimes including pre-meditated murder and serious bodily harm. Their appeals are still to be heard. [3]

4.13 **Armija Krajova:** The Ministry of Justice denied the registration of Armija Krajova, an anti-Nazi veterans association, under the pretext that it had also taken part in exterminating Lithuanian civilians during World War II [13]

4.14 **Unity Party:** This social movement was organised and registered in Vilnius in 1989. It was legal until 11 March 1990. The leader, Mr Ivanov, a Russian citizen, was jailed for criminal offences. However, he is now free and not persecuted. No one would be arrested for just being a member of this movement. [11c]

4.15 **Ukio Party:** This is an officially registered party which functions in accordance with the Law on Political Parties and the Constitution of the Republic of Lithuania. The party participated in the Elections in 1996 but did not get any seats in the Parliament (Seimas). It has 5 seats in local municipalities. [11d]

4.16 **Yedinstvo:** This is a pro-Soviet (not pro-Russian) organisation that functioned in pre-independence years. It took active part in the massacre of 13 January 1991 when eleven people were killed in Vilnius while defending the TV tower from Soviet tanks. Yedinstvo is considered to be a criminal organisation. [11d]

C. The Lithuanian Constitution

4.17 The Lithuanian Constitution was approved in a national referendum on 25 October 1992 and was adopted by the Seimas on 6 November 1992. The Republic of Lithuania is an independent and democratic republic; its sovereignty is vested in the people, who exercise their

supreme power either directly or through their democratically elected representatives. The powers of the State are exercised by the Seimas, the President of the Republic, the Government and the Judiciary. The most significant issues concerning the State and the people are decided by referendum. [1] [23]

4.18 In accordance with the 1992 Constitution, the rights and freedom of individuals are inviolable. Property is inviolable and the rights of ownership are protected by law. Freedom of thought, conscience and religion are guaranteed. All persons are equal before the law. No one may be discriminated against on the basis of sex, race, nationality, language, origin, social status, religion or opinion. [1]

D. The Right of Citizens to Change their Government

4.19 Article 33 of the Constitution provides that citizens shall have the right to participate in the government of their State both directly and through their freely elected representatives and shall have the equal opportunity to serve in a State office of the Republic of Lithuania. The right to be elected is provided for by the Constitution and by the election laws. [10]

4.20 Political parties and political organisations have to be registered by the Ministry of Justice of the Republic of Lithuania. At present, 24 political parties and political organisations function in Lithuania although new parties are being formed. [24c] The Ministry of Justice of the Republic of Lithuania has the right to suspend the activities of a political party or a political organisation if it violates the Constitution. The law provides that all political parties and political organisations in Lithuania function freely and independently. State bodies, enterprises, institutions and organisations, as well as public organisations and officials, are prohibited from interfering in the internal affairs of a political party or a political organisation. [10a] In February 1999, the Justice Ministry refused, for the seventh time, to register the right-wing Lithuanian National Socialist Unity Alliance. [9b]

4.21 The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right through periodic, free and fair elections held on the basis of universal suffrage. The election law provides for a secret ballot in parliamentary elections. Of the 141 parliamentary seats, 71 are elected directly and 70 through proportional representation. Only those parties that receive more than 5% of the total ballots (or 7% for coalitions) are allowed representation in the Parliament. National minority slates have been exempt from this rule in the past, but despite the new guidelines ethnic Lithuanians, Poles, Russians, and Jews were all elected to the new Parliament in the autumn elections. [3a]

E. The Security Services

4.22 A unified national police force under the jurisdiction of the Interior Ministry is responsible for law enforcement. The State Security Department is responsible for internal security and reports to Parliament and the President. [3] A particular effort has been made to reform the police, although they continue to face problems in recruiting suitable staff, training them and in keeping well qualified officers in the service. [8] Economic pressures have resulted in more than 1,200 policemen being made redundant in 1999. [9I]

4.23 According to Article 5 of the Law on State Security Department of the Republic of Lithuania (1991), the State Security Department is obliged to follow the principle of inviolability of human rights and freedoms. Human rights and freedoms may be restricted only in cases established by law. Upon the request of a person, officers of the State Security Department have to ascertain the legal grounds for the restriction of his/her freedoms and rights. [10a]

4.24 The Lithuanian Constitution specifically forbids torture and, in 1999, there were no reports of its use. However, police sometimes beat or otherwise physically mistreat detainees. The local press have reported that incidents of police brutality are becoming more common. In many instances, the victims reportedly are reluctant to bring charges against police officers for fear of reprisals. A total of 79 officers were dismissed for illegal or fraudulent activities in the first 6 months of 1998 for a variety of offences, compared with 182 for all 1997. During the first six months of 1999 four police officers were charged with abuse of power and one officer was sentenced. [3a] The Ministry of the Interior stated that district police inspectors are the most negligent in the force. To strengthen the integrity of the police, the Inspectorate General of the Ministry of the Interior was given administrative autonomy in May 1997. [3]

4.25 In 1997, a parliamentary committee started investigations into the conduct of house searches by the police. This was prompted by a search carried out without a warrant in the home of parliamentary deputy Algirdas Petrusevicius. It was revealed that during the investigation of one specific case, 17 out of 39 searches had been conducted without official permission. [11a]

4.26 On the initiative of the Ombudsman, a law on restitution for losses caused by unlawful interrogation, investigation or actions by the Prosecutor's Office and courts of law was adopted. In addition to restoring the victims' professional and labour rights, the new law also provided for the related loss of property, grants and pensions to be compensated. [11a]

4.27 In May 1997, the parliament decided that its own deputies might not be subjected to 'phone tapping. This decision raised questions about how widespread tapping of 'phones and other monitoring of suspects actually was in Lithuania and how far it was subject to legal controls. [11a]

4.28 Article 8 of the Law on the Police of the Republic of Lithuania provides police officers with the possibility of establishing professional unions and other associations in order to meet their professional, cultural and social needs. Police officers, however, cannot become members of political parties. The same Article prohibits them from going on strike. . The demands of the employees of such services have to be considered by the Government. [10a]

4.29 The State Security Department guarantees a person confidentiality of information. Persons who have helped the State Security Department and suffered material loss as a result are subject to compensation of damage by the State. [10a]

4.30 **ARAS:** ARAS was established in 1991 to deal with anti-terrorist, hostage release operations and arresting especially dangerous and armed criminals, including those involved in organised crime and hijacking. ARAS also organises the protection of witnesses and victims as well as buildings (in special cases). They assist the criminal police and special investigative service in secret operations and with bomb disposal. [11c]

4.31 During the first half of 1999, six criminal cases were brought against military conscripts and officers for systematic degrading treatment (1)and breach of discipline involving violence (5) . In May 1999 the Seimas approved the new disciplinary statute of the armed forces. [3a]

F. Legal Rights/Detentions

4.32 Lithuania has ratified the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or

Punishment. [10c]

4.33 On 1 July 1997 the Government abolished the practice of preventive detention which it viewed as an abuse of human rights. Although the Constitution provides that no persons may be arbitrarily detained or arrested there were instances of prolonged detention. [3a] Under the new Article 10 of the Act amending the Code of Criminal Procedure no one can be arrested without a court order or judge's decision. Previously the prosecutor had been able to order arrest. If the judge grants the application, the prosecutor has 48 hours to bring the person concerned before the judge, who questions him before confirming the arrest or revoking it. Under the new Code of Criminal Procedure no one may be held in pre-trial detention for more than six months. This period may be extended by the district judge up to a maximum of eighteen months in a particularly complex case. [10b]

4.34 In addition, the amended provision of the Code of Criminal Procedure specified the grounds on which a person could be arrested. There had to be reasonable grounds for suspecting that the person in question might flee to avoid investigation and trial or that he might obstruct the course of justice or commit new offences.[10b]

4.35 Article 54 of the Law on Courts provides that all citizens have the right to legal protection of all the rights and freedoms guaranteed by the Constitution. [10b]

4.36 Article 55 of the Code of Penal Procedure states that upon the request of the suspect, the accused, or a person on trial, the participation of a counsel for the defence is guaranteed by the investigator, the interrogator, the judge or the court.[10a] In practice the right to legal counsel is abridged by the shortage of trained advocates who find it difficult to cope with the burgeoning numbers of criminal cases brought before the courts. Outside observers have recommended the establishment of a public defender system to regularise procedures for provision of legal assistance to impoverished persons charged in criminal cases. By law, defence advocates have access to government evidence and may present evidence and witnesses. The courts and law enforcement agencies generally honour routine, written requests for evidence. [3a]

4.37 Paragraph 6 of Article 267 of the Code of Penal Procedure provides for the right of the accused to question witnesses, experts, specialist, other persons on trial as well as the plaintiffs and their representatives.[10a]

4.38 Article 2 of the Constitution embodies virtually all the rights and freedoms set forth in the international instruments. [10b]

G. Prisons

4.39 Following the restoration of independence, the provisions applicable to places of detention were amended, together with almost 70% of the Articles of the Penitentiary Code, to ensure that prison sentences were served under more humane conditions. In 1996 an act on place of pre-trial detention was adopted. Although in practice, convicted prisoners had already been held separately from prisoners awaiting trial, the new provision made it mandatory to do so. The requirement to separate minors from adults was laid down by Article 18 of the Penitentiary Code and by Article 12 of the Act on pre-trial detention. [10b] Article 18 of the Penitentiary Code also established the provisions regarding separate confinement of convicts with regard to age, sex and the gravity of the crime committed. [10a] The country is attempting to reform its prison system and is reviewing a new criminal code. [3a]

4.40 Prison conditions remained extremely poor. The main problems included overcrowding, poor maintenance, inactivity and abuse by fellow prisoners. [3a]

4.41 Most prisons, and in particular cells in which persons were held pending trial, were overcrowded and with the rising number of persons being convicted, conditions were unlikely to improve despite the provision of more prison capacity. A new pre-trial detention centre for juveniles was being built at Kaunas and a central prison hospital was under construction at Vilnius. [10b]

4.42 There have been some positive administrative developments. On the initiative of the Ombudsman, the government adopted a decree in 1997 to make sentencing and prison policy more humane. 1997 also saw radical changes to the internal rules of all correctional labour establishments. As a result, inmates could wear their own clothes and were free to telephone their families at their own expense. Inmates were also entitled to have a TV-set, radio, books and newspapers in their own cells and could be granted additional visits for good behaviour. [13a] Human rights monitors are permitted to visit prisons. [3a]

H. The Judicial System

4.43 New criminal and civil codes and codes of civil and criminal procedure are currently being drafted. The main drafting principle is compliance with the requirements of the European Convention on Basic Human Rights and Freedoms. [3a]

4.44 To ensure the protection of the rights recognised by the International Covenant on Civil and Political Rights and other international instruments, the court system of Lithuania has undergone a process of reform. In addition to local courts, the Supreme Court, the Constitutional Court, district courts and the Court of Appeals have already begun functioning and the institution of the Seimas' Ombudsmen has been established; the limits of their competence and the procedures for filing a complaint have been defined. Every decision made by executive, legislative and judicial bodies may be appealed to a higher court. [15(c)] However in December 1998 President Adamkus signed a controversial law on the parliamentary Ombudsmen. This stipulates that the parliament is to appoint 5 ombudsmen for four-year terms. They are not allowed to investigate activities of the president, prime minister, cabinet of ministers, law makers, judges or other officials. This provision seriously weakens the idea of providing a defender of the rights of individuals [10a]

4.45 In Article 109 of the Constitution of the Republic of Lithuania and Article 1 of the Law on Courts, it is said that the courts have the exclusive right to administer justice in the Republic of Lithuania. In administering justice, judges and courts are independent. Judges investigating a case can obey only the law. [10a] The Lithuanian Constitution provides for an independent judiciary, and the judiciary is independent in practice. [3a]

4.46 Article 117 of the Constitution of the Republic of Lithuania, Article 6 of the Law on Courts, Article 16 of the Code of the Penal Procedure and Article 10 of the Code of the Civil Procedure of the Republic of Lithuania provide that all court proceedings are open to the public. Closed court sittings may be held in order to protect the citizen's or the citizen's family's private life, or to prevent the disclosure of State, professional or commercial secrets. Closed court sittings may be held in cases where the criminal act was committed by a person under the age of 16 or in order to ensure the secrecy of adoption. Verdicts and final court decisions are openly announced in all cases. [10a]

4.47 Article 31 of the Constitution of the Republic of Lithuania, article 3 of the Law on Courts and article 3 of the Penal Code provide that every person has to be presumed innocent until proven guilty according to the procedure established by law and until declared guilty by an effective court sentence. [10a]

4.48 The Seimas (legislature) appoints and dismisses from office the judges of the Supreme Court in response to representations made by the President of the Republic of Lithuania (based on the recommendation of the Minister of Justice), while judges of district and local courts are appointed and dismissed by the President. The Council of Judges submits recommendations to the President of the Republic concerning the appointment of judges, as well as their promotion, transfer or dismissal from office. [2]

4.49 The Constitutional Court decides on the constitutionality of acts of the Seimas, as well as of the President and the Government. It consists of nine judges, who are appointed by the Seimas for a single term of nine years; one-third of the Court's members are replaced every three years. [1]

4.50 The Office of the Prosecutor-General is an autonomous institution of the judiciary, comprising the Prosecutor-General and local and district prosecutors' offices which are subordinate to him. The Prosecutor-General and his deputies are appointed for terms of seven years by the Seimas, while the prosecutors are appointed by the Prosecutor-General. The Office of the Prosecutor-General incorporates the Department for Crime Investigation. [1] The Prosecutor General exercises an oversight responsibility through the network of district prosecutors who work with police investigators, employed by the Ministry of the Interior, in preparing the prosecution's evidence for the courts. [3]

4.51 Under the provisions of the Court Reform Law, two new kinds of courts were created. Local district courts are being set up below the present district courts to handle cases at the municipal level, while a new appellate court level is hearing appeals arising from district court decisions, thereby reducing the case load of the overburdened Supreme Court. [3]

4.52 An arbitration system for commercial cases was established in 1997 by the Lithuanian Chamber of Commerce, Lithuanian Industrialists' Association, the Association of Lithuanian Banks, and the Association of International Chambers of Commerce. With the abolition of the Economic Court in September 1998, commercial cases will be resolved through arbitration or heard in county or district court. In addition as a result of accession to the Council of Europe in 1993, the Ministry of Justice initiated in 1995 an ongoing process to review Lithuania's laws to bring them into accord with provisions of the European Convention on Basic Human Rights and Freedoms. [3]

4.53 The European Commission expressed concern in its Opinion about the excessive length of court proceedings due to the lack of qualified staff and organisational problems. In order to cope with these problems, the Lithuanian authorities have taken several measures (outlined below), the effectiveness of which has yet to be tested.

- ◆ The number of judges has increased to 518. However, there are still 101 vacancies to be filled.
- ◆ A special training department has been set up within the Ministry of Justice and an independent Training Centre for Lithuanian Judges has been established in order to remedy the problem of inadequate specialist training.
- ◆ The Law on Courts has been amended to re-organise the work of the court bailiffs and to make them more efficient.
- ◆ A four-tier judicial system has been set up in Lithuania in order to reduce the workload of the Supreme Court but organisational changes may have actually lengthened court proceedings. The recent amendments to the Law on Courts have established a special Court Department in the Ministry of Justice. One of the major tasks of this department is to administer the works of the

Courts.

◆ The length of court proceedings has created problems, particularly in commercial cases. This has resulted in an inadequate application of the bankruptcy law. In order to speed up the settlement of commercial disputes, arbitration tribunals have been set up and the Commercial Court was abolished as of 1 September 1998.

A law was passed on 1 November 1997 to provide for Remedies for Damages inflicted by the Unlawful Acts of investigative judicial bodies. [14b]

I. The Penal Code

4.54 Article 30 of the Constitution of the Republic of Lithuania, Article 64 of the Code of Penal Procedure ("The Obligation of the Inquest Body, Interrogator, Prosecutor and the Court to Authorise the Recovery of Damage Inflicted upon a Person by Unlawful Actions"), and Article 486 of the Civil Code ("The Recovery of Damage Inflicted by Unlawful Actions of Inquest, Interrogation, Prosecutor's Office or Court Officers") stipulate the right of a person to receive compensation for material and moral damage resulting from the violation of his/her constitutional rights and freedoms. [10a]

4.55 In the period from 1 January 1993 to 1 October 1995, 14 officials of the Ministry of Internal Affairs were punished by administrative penalties for unlawful application of Article 137 of the Code of Penal Procedure. [10a] Efforts continued in 1998 to reform legal codes imposed during the Soviet era. Parliament passed new civil and criminal procedure codes as well as a Court Reform Law in 1995. [3]

4.56 The Penal Code of the Republic of Lithuania also provides for the responsibility of officials for abuse of official duties (art. 178), unlawful arrest (art. 185), unlawful detention or bringing to court. [10a]

J. The Death Penalty

4.57 In December 1998 the Lithuanian Constitutional court ruled that capital punishment was at odds with its Constitution and on 22 December 1998 it was reported that the Lithuanian parliament had abolished the death penalty, passing amendments to the Criminal Code and replacing capital punishment with life imprisonment for very serious crimes. The parliament also passed a law giving those already sentenced to death, of which there were nine, the chance of life imprisonment. [17a] [15] The EU welcomed the abolition of the death penalty, noting that an overwhelming majority of parliamentarians voted in favour. [16]

4.58 On 18th January 1999 Lithuania's permanent representative to the Council of Europe signed Protocol No. 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms which provides for the abolition of the death penalty. On 9 February 1999 it was reported that Lithuania's Supreme Court had commuted the death sentences of eight persons to life imprisonment.[17b]

K. Citizenship

4.59 The Citizenship Law, adopted in 1991 and amended in October 1995, is inclusive with regard to the country's ethnic minorities. The law provides citizenship to persons who were born within the borders of the Republic of Lithuania; who were citizens of Lithuania prior to 1940 and their descendants; or who became citizens under previous legal authority. [3]

4.60 Qualification for naturalisation of persons not covered by the above-mentioned categories

requires a 10-year residency, a permanent job or source of income, knowledge of the Constitution, renunciation of any other citizenship, and proficiency in Lithuanian. [3]

4.61 Under Lithuania's citizenship laws, all residents, regardless of ethnic origin, were eligible to apply for naturalisation; by early 1993 more than 90% of the country's non-ethnic-Lithuanian residents had been granted citizenship. [1]

4.62 With certain exceptions established by law no person may be a citizen of Lithuania and of another state at the same time.[1]

4.63 During the first six months of 1998, 248 persons applied for citizenship and 220 were granted citizenship upon passing a language test. Of 1,650 persons who asked that their citizenship rights be restored in the first six months of the year, 881 persons were successful.[3]

L.Social Welfare

4.64 The health care system adopted in October 1991 covers all residents. In 1997, the system was undergoing a process of reorganisation: previously funded by the state, the financing of health care is to become the responsibility of insurance funds. [1]

4.65 The social insurance scheme covers all residents and entitles them to old age and disability pensions, some unemployment benefits, and benefits in the event of sickness, maternity and widowhood. Finance for the scheme is provided by the independent Social Insurance Fund, and is administered by a central board. The social assistance scheme is administered by local authorities and provides certain family benefits and means-tested social benefits. The 1992 Constitution guarantees the right of citizens to old-age and disability pensions, as well as to social assistance in the event of unemployment, sickness and widowhood, etc. [1] However, a lack of funds has necessitated a review of the social security system, which is likely to prove unpopular. [19]

M. Education

4.66 Under the terms of the 1992 Constitution education, which is free, is compulsory between the ages of 7 and 16. There are three principle levels of education: comprehensive, vocational and schools of further education. Lithuanian is the main language of instruction although there are schools where Russian, Polish, Belarusian and Yiddish are the medium of instruction. There are also schools offering education in two or more languages.[1][10a]

N. Europe and Nato

4.67 Full membership of the institutions of Western Europe is Lithuania's over-riding foreign policy goal. A formal application for EU membership was lodged on 8 December 1995 following the signature of an Association (Europe) Agreement on 12 June 1995 and a Free Trade Agreement on 18 July 1994. Formal talks were scheduled to begin on 15 February with the aim of being ready to join the EU by the beginning of 2004. [6b] Lithuania joined the Council of Europe in 1993 and became an Associate partner of the WEU in May 1994. [11e][39]

4.68 The Europe Agreement between the European Union and Lithuania entered into force on 1 February 1998 following the completion of the ratification procedures. Lithuania has implemented the Europe Agreement correctly and contributed to the smooth functioning of the various joint institutions. [21]

4.69 The European Commission's Progress Report of November 1998 stated that Lithuania continues to fulfil the Copenhagen political criteria and should intensify the fight against

corruption and pursue reform in the judiciary. It also concluded that:

- The Parliament has continued to operate in a satisfactory way. Its powers are respected and the opposition plays a full part in its activities.
- The Executive continues to function satisfactorily. The Presidential elections were free and fair.
- Lithuania had taken some measures at addressing the problems identified in the Opinion.
- Economic, social and cultural rights continue to be respected.
- The two main minority communities (Polish and Russian) have well-established rights which had not changed from the date of the Opinion.[14b]

4.70 The 1999 Report confirmed that Lithuania continues to fulfil the Copenhagen criteria but should intensify the fight against corruption and pursue reforms in the judiciary. [14a]

4.71 Lithuania applied to join NATO in January 1994. It is the first of NATO candidate countries to have submitted its integration programme to the alliance, thus opening a new stage in consultations on NATO membership.[22] [39] [37b]

V HUMAN RIGHTS

A . Actual Practice with regard to Human Rights

5.1 Lithuania continues to respect human rights and freedoms and has acceded to most of the major human rights conventions.[14a] In 1994 the Government established the Department of International and Human Rights within the Ministry of Justice, which monitors law and legal practice to determine whether these are in accord with Lithuania's international obligations.[3]

5.2 Lithuania is a parliamentary democracy. Those returning after being refused asylum in other countries do not face any Government sanctions.[11f]

5.3 After the Constitutional Court ruled that the death penalty was against the Lithuanian Constitution, the Seimas abolished it in December 1998. Lithuania has subsequently ratified the Protocol 6 on the Death Penalty of the European Convention for the Protection of Human Rights and Fundamental Freedoms. It has also signed the European Convention for the Prevention of Torture (specifically forbidden under the Constitution) and Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Rights of the Child [14a]

5.4 The Framework Convention for the Protection of National Minorities has not yet been ratified. Lithuania has not yet signed the initial European Social Charter.[14a]

5.5 In December 1998, the Code of Civil Procedure was supplemented by a chapter providing, inter alia, for renewal of a lawsuit if the European Court of Human Rights rules that a decision by a Lithuanian Court contradicts the European Convention for the Protection of Human Rights and Freedoms.[14a]

5.6 By virtue of the 1991 Act on International Treaties, treaties ratified by Lithuania have force of law.[3]

5.7 Lithuania has taken measures aimed at addressing some of the problems identified in the Opinion and 1998 Regular Report:

- pre-trial detention has been reduced
- prison facilities have been improved for women and juvenile offenders
- conditions at the Pabrade foreigner registration centre have been improved [14a]

5.8 The Law on Non-Governmental Organisations regulated the operation, registration rights and obligation of NGOs. Article 11 of the Law stipulates that no State institutions or officials, political parties or political organisations, other organisations and persons may interfere with the activity of NGOS. [10a]

5.9 Most government authorities cooperate with local non-governmental organisations and actively encourage visits by international and non-governmental human rights groups. A key exception is the Ministry of Interior which has continually refused to release information on police brutality and statistics on corruption-based incidents.[3]

5.10 There were no reports of political or other extra-judicial killings in 1999, nor were there any reports of politically motivated disappearances. Economic, social and cultural rights continue to be respected.[3][3a]

B. SPECIFIC GROUPS

Women

5.11 Article 29 of the Constitution prohibits discrimination based on race, sex, religion, disability or ethnic background. [23] Official policy specifies equal pay for equal work and generally men and women receive the same pay for comparable work although women are under-represented in some professions and in the managerial sector as a whole. [3] There are 24 female parliamentarians out of 137 members and there is one female minister in the 15 member Cabinet.[3a]

5.12 More and more women are forging careers in administration and politics. Women are entitled to choose jobs which are not harmful to their health or that of their children. Pregnant women and women with children under 14 are entitled to choose their periods of annual leave. Anyone refusing to employ a woman because of her pregnancy is liable to prosecution.[10b]

5.13 Abuse of women at home is reportedly common but institutional mechanisms for coping with this problem are now being formed. A number of women, some under-age, have been enticed or forced into prostitution and sold abroad by organised crime figures.[3][3a]

5.14 The Office of the Ombudsman for Equal Opportunities for women and Men was established in May 1999.[3a]

See also paragraphs 6.31 and 6.39

Children

5.15 Lithuania ratified the Convention on the Rights of the Child in January 1992.

5.16 The Ministries of Social Security and of the Interior share official responsibility for the protection of children's rights and welfare. There are 56 branches of the Children's Rights Protection Council throughout the country.[3][3a]

5.17 Child abuse is reported to be a problem. The prevalence of authoritarian values in family upbringing has discouraged more active measures against child abuse. [3] There is no specific criminal code for child pornography, sexual abuse or sex tourism. [3a]

5.18 Trafficking in girls for the purpose of forced prostitution is a problem. [3a]

People with Disabilities

5.19 The 1991 Law on Integrating Disabled People provides for a broad category of rights and public benefits to which disabled people are legally entitled. Legal provisions for access to buildings for people with disabilities are in place but are not widely enforced. [3a]

5.20 The Government has allotted approximately \$35 million for providing financial and care support for persons with disabilities. [3a]

5.21 The rights of mentally ill patients were frequently violated. For example, individuals were frequently confined to psychiatric institutions by force and without a court decision having been taken. [13a]

Religious Freedom/Minorities

5.22 Article 26 of the Constitution stipulates that "every person shall have the right to freely choose any religion or faith and, either individually or with others, in public or private to manifest his or her religion or faith in worship, observance, practice or teaching" [10a] The Constitution provides for religious freedom and the Government generally respects this provision in practice.

5.23 The Law on Religious Communities and Associations was passed in October 1995 and grants religious communities, associations and centres property rights to prayer houses, homes and other buildings and permits construction necessary for their activities. Article 5 of this law mentions nine religious communities that have been declared traditional by the law and therefore eligible for governmental assistance. They are Latin Rite Catholics, Greek Rite Catholics, Evangelical Lutherans, Evangelical Reformers, Orthodox, Old Believers, Jews, Sunni Muslims and Karaites. In 1999 the Hasidic Chabad Lubavich community was recognised as a traditional religious group and was granted the status of a traditional religious community. [3a] There are no restrictions on the activities of other religious communities. [25]

5.24 Most ethnic Lithuanians are Roman Catholics but there are small communities of Calvinists and Lutherans as well as a growing number of modern Protestant denominations, including the Baptists. Adherents of Russian Orthodoxy are almost all ethnic Slavs while most Tatars have retained an adherence to Islam. [1] At present there are 23 different religious confessions registered in Lithuania. They unite 1,044 religious groups. [10a]

5.25 Article 43 of the Constitution provides that "there shall not be a State religion in Lithuania" and "The State shall recognise traditional Lithuanian churches and religious organisations, as well as other churches and religious organisations, provided that they have a basis in society and their teaching and rituals do not contradict morality or the law" [10a]

5.26 The Futurists, though not strictly speaking a religious organisation, are also officially accepted and members face no persecution. [26]

Main Religions

5.27 The main religions in Lithuania are:-

The Roman Catholic Church of which some 80% of Lithuania's population are adherents.[1]

The Byzantine Rite Catholic (Uniate) Church which is under the judicial protection of the Roman Catholic Church of Lithuania.[1]

The Russian Orthodox Church which was considered the State religion from 1795-1915 while Lithuania formed part of the Russian Empire.[1]

The Lithuanian Old Believers Pomor Church whose followers are comprised of ethnic Russians and number approximately 34,000.[1]

The Lithuanian Evangelical Lutheran Church with approximately 30,000 followers.[1]

The Lithuanian Evangelical Reformed Church with a following of approximately 12,000.[1]

Islam which is the religion of the ethnic Tatars of Lithuania. At the beginning of 1996 there were five Tatar religious communities.[1]

Judaism At the beginning of 1996 there were five Judaic religious communities. In January 1998 there were an estimated 6,000 Jews residing in Lithuania, mostly in Vilnius.[1]

5.28 **Registered Religions**

Roman Catholic (Latin and Greek Rites)

Evangelical Lutheran Church

Evangelical Reformed Church

Russian Orthodox Church

Russian Orthodox Old Believers Church (the Old Ritualists)

Judaists

Sunni Muslims

Karaites

Baptists

Hassidic Chabad Lubavich Community

Church of Jesus Christ (Visaginas)

5.29 **Unregistered**

Jehovah's Witnesses

Full Gospel Evangelical Church (Word of Faith, Word of Truth etc)

Pentecostals

Baptists

Free Independent Churches

International Krishna's Conscience Organisation

Seventh Day Adventists

Buddhists

Community of Baltic Faith Romuva

Unification Church

Non-denominational Christian Churches

Mormons (Church of Jesus Christ of the Latter Day Saints)

Methodists

Yoga Fraternity (Man's Existence Academy)

Romanian Orthodox Community

The Church of Christ [28]

5.30 **Tikejimo Zodis** is a religious community which is officially registered in Lithuania. They have a school and the Vilnius Municipality has allocated some money for their needs. It has a mission to attract people but those who dislike participating in their gatherings may leave without persecution. Anyone under the age of 18 wishing to join needs parental consent.[11h]

Ethnic Minorities

5.31 Ethnic minority groups including Russians, Poles, Belarusians, Ukrainians, Tatars and Karaites make up roughly 20% of the country's citizens. Many non-ethnic Lithuanian public sector employees were required to attain a functional knowledge of Lithuanian within several years, although the authorities have been granting liberal extensions of time frame in which this competence may be achieved.[3] The authorities have said that no one would be dismissed solely because of an inability to meet the language requirements.[3a]

5.32 The rights of freedom of persons who belong to ethnic, linguistic and religious minorities are provided for by the Law on National Minorities of the Republic of Lithuania. Lithuania guarantees all ethnic minorities residing in Lithuania the right to develop freely and respects every minority and language. Any discrimination with regard to race, ethnicity or nationality, language or anything else related to ethnicity is prohibited and punishable by law.[10a] Vidmantas Gibunas's conviction and sentence for malicious hooliganism in January 1998 resulted from several crimes, including assaulting a Japanese citizen in 1995, assaulting two ethnic Russians in 1996 and pushing a Korean fisherman into the river in 1997.[3]

5.33 The Law on National Minorities provides for the following: to obtain aid from the State to develop minority culture and education; the right to schooling in one's native language; to have the press and other information services in one's own language; to form ethnic cultural organisations; to establish contacts with persons of the same ethnic background abroad. The Law provides that historical and cultural monuments of ethnic minorities have to be considered part of the cultural heritage of Lithuania and are under the protection to the State. [10a]

5.34 Under Lithuanian law any force directed towards the refusal of one's ethnicity is prohibited. On the other hand, no one can be forced to prove his ethnicity. Every citizen, upon obtaining a passport is free to identify his national origin on the basis of his parents or one of his parents or to ask the authorities not to insert a "nationality" seal into his/her passport.[10a]

5.35 An analysis of the legal acts functioning in Lithuania has shown that there are more than 100 laws and legal acts protecting the rights of national, linguistic and religious minorities.[10a]

5.36 At present nineteen different nationalities residing on the territory of Lithuania have their own governmental organisations, the total number of which exceeds 150.[10a]

5.37 The Department of Regional Problems and National Minorities is responsible for upholding the interests of minorities and safeguarding their identities.[10a]

Jews

5.38 The first Jewish community appeared in Lithuania in the 15th century. Before World War II approximately 150,000 Jews lived in Lithuania, 90% of whom were murdered during the German occupation.[1] [29] At the beginning of 1999 the Jewish population of Lithuania numbered about 9,600. There are 17 Jewish organisations in Lithuania whose principal concerns are Jewish education.[38]

5.39 Anti-semitism is not endemic in Lithuania. In 1995 the then President publicly apologised to the Knesset for Lithuanian action towards the Jewish community during the Nazi occupation in 1940.[29]

5.40 Where anti-semitic attacks occur, the authorities are quick to take action and at least one prosecution has taken place for the desecration of a Jewish cemetery in 1995.[3] [9e] The Penal Code provides for a sentence of imprisonment from 2 to 10 years for incitement of racial or national hatred or incitement of violence against foreigners. [3a]

5.41 The ultra-nationalist organisations, Populist Movement (Tautininkai) and Young Lithuania (Jauna Lietuva) remained on the fringe of society in 1998. Their newspapers Lithuanian Morning and the Republic, once very anti-semitic, have moderated their position. The United National Socialist League (SNEL) and the Lithuanian Freedom League are anti-semitic and are banned.[38]

5.42 Although an initiative was announced in May 1998 to form an international commission for research into crimes against humanity perpetrated in Lithuania from 1939-91, it had not received funding, staff or an action plan by the end of 1998.[3] The Social Democratic Party has called for amendments to the laws impeding the conviction of people accused of genocide against Jews. [9d]

5.43 In December 1998 Vilnius District Court brought a verdict of guilty of genocide during World War II against three former members of the National Committee of State Security (NKVD). All, in their seventies, were sentenced to several years' imprisonment and their property was confiscated. [9c]

5.44 An international forum is to be held in Vilnius in October 2000 with the aim of restoring ownership rights of property belonging to Jews which was plundered or destroyed during the Nazi occupation. Under current Lithuanian law, property nationalised in 1940 by the Soviet authorities can be returned only to Lithuanian citizens and religious communities.[9j]

Poles

5.45 The Polish minority numbers about 261,000 (7%) of the population. Initially tense relations between the Poles and the authorities improved considerably after the election in February 1993 of two district councils that had been suspended immediately after the August 1991 coup attempt. Members of the councils, which represented predominantly Polish constituencies, had

been charged with supporting Soviet rule during Lithuania's independence struggle and supporting the Moscow putsch.[29]

5.46 Among the members of the Seimas today there are seven members of Polish nationality, one Jew and three Russians. [10a]

5.47 Poles have ready access to primary secondary and higher education in the Polish language. There are TV and radio broadcasts in Polish as well as numerous periodicals.[29]

5.48 A joint Polish-Lithuanian Commission met in Warsaw in June 1999 to discuss the problems of the Polish community in Lithuania and of the Lithuanian minority in Poland.[27] Although there are periodic complaints about discrimination from elements in the Polish community, the Polish Government has not sought to become involved.[11I]

5.49 The recent court decision to double the sentences of five pro-Soviet activists who attempted to establish a Polish autonomy in Lithuania's Salcininkai district in 1991 has put a strain on Polish/Lithuanian relations.[12c]

Russians

5.50 The Russian minority numbers about 8.5% of the population and can be divided into three groups: those whose ancestors settled in Lithuania between the 16th and early 20th centuries; those who settled there between the two world wars as immigrants from the Soviet Union and those who moved to Lithuania after the Second World War as civilians or members of the Soviet military /police apparatus.[29]

5.51 Initially tense relations between the Lithuanian authorities and the Russian minority have improved considerably since 1991. [29]

5.52 The overwhelming majority of ethnic Russians have chosen Lithuanian citizenship but a few have opted for Russian citizenship or decided to remain in Lithuania as stateless persons. [10b]

5.53 The Russian minority have access to primary, secondary and tertiary education in their own language. State radio and television broadcast a fair selection of programmes in Russian and Lithuanian television regularly rebroadcasts programmes from Russia. More than a dozen periodicals are published in Russian.[29] [10b]

5.54 Russia has cited Lithuania's treatment of its Russian minority as an example which other Balts should follow. [11I]

5.55 Lithuanian Russian participate in politics through political parties and organisations such as the Union of Russian Lithuanians, a political party founded in 1995, and the Citizens Alliance, a political organisation dating from 1996. Since independence, ethnic Russians have sat in the Lithuanian parliament and on municipal councils.[10b]

5.56 Various Russian religious communities also played an important role in Lithuania's cultural and spiritual life. In 1995 there were 58 groups of Old Believers and 41 Orthodox groups. Since the war there has been a Russian old Believers monastery and convent at Vilnius.[10b]

Roma

5.57 There are approximately 3-4000 Roma residing in Lithuania. There is nothing to indicate that they experience any particular problems there.[30]

Refugees

5.58 Lithuania is making efforts to comply with international standards on asylum seekers protection. The Lithuanian Government co-operates with the office of the United Nations High Commissioner for Refugees and other humanitarian organisations in assisting refugees. In 1997, 1998 and 1999 there were no reports of forced return of persons to a country where they feared persecution. [3][3a]

5.59 In July 1991 the 1951 Refugee Convention and its Protocol, as well as the National Refugee Law, entered into force and asylum procedure became operational. Since the enforcement of the Refugee Law 471 persons have applied for asylum, of whom 43 were recognised as refugees and are currently being integrated in the municipalities. The law, for example, provided quotas controlling the number of refugees who could be received. Moreover, the director of the Migration Department of the Ministry of Interior stated that only those refugees residing in Lithuania were allowed to apply for asylum. [13a]

5.60 The 1997 Law on Refugee Status allows for the formal grant of refugee status to qualified applicants. The 1998 Law on Legal State of Aliens came into effect in July 1999. [3a] With the enforcement of the Aliens Law on 1 July 1999 asylum seekers, rejected as refugees but in need of international protection, were able to apply for temporary stay permits on humanitarian grounds.[18][20] The process of granting asylum has already started. An asylum seeker whose application is rejected can appeal to the Council for Refugees Affairs and, finally, the Court. However, some aspects of the admission procedure established by the law are not in line with the relevant international Conventions. [14b]

5.61 Lithuania has now concluded agreements on readmission with the following countries: Latvia, Estonia, Finland, Iceland, Italy, Slovenia, Sweden, Switzerland, and Ukraine. The conclusion of the readmission agreement with Ukraine (which came into force on 29 March 1997) was quite important as a number of persons detained in Lithuania came directly from there. Lithuania is expected to conclude corresponding agreements with Belarus, Russia, Poland and Germany. Taking into consideration the fact that most of their illegal immigrants come from Belarus and Russia, the lack of readmission agreements with these transit countries seriously impairs dealing with detained aliens. It was expected that respective agreements with Russia and Belarus would be concluded in 1998. [10c]

5.62 On 13 February 1998, Lithuania signed a co-operation treaty with the International Migration Organisation under which it is developing a project to improve management of legal and illegal immigration. The mounting number of readmission agreements, the introduction of new identity cards and the adoption of an amendment to the Penal Code bringing in stiffer sanctions for trafficking in human beings should all help master migrant flows. [14b]

5.63 Aliens who wish to apply for refugee status submit their application in writing or orally, either to the border post or to a police station in Lithuania. When it has been established, in conformity with Article 4 of the Act of 4 July 1995 on the status of refugees, that there are no grounds for refusing asylum, the alien is granted temporary territorial asylum. Asylum seekers may be accompanied by members of their family (their spouse and children under 18) and all of them are entitled to State assistance and public services. Under the Act, the freedom of movement of aliens granted temporary refugee status could be limited. Refugees granted temporary status were housed at the refugee centre, which they could leave to travel within Lithuania for a maximum period of 72 hours. If they left the centre for over 72 hours without sufficient reason, the processing of their application for refugee status could be terminated. Aliens granted temporary asylum and those whose identity had not yet been determined were not

authorised to leave the refugee centre. Asylum seekers were entitled to various rights while their application was being processed: exemption from any charges or fees for processing the documents necessary to determine their refugee status; the free services of an interpreter or a translator; free housing in the refugee centre, where many services were available; free medical care and a monthly allowance. [10b]

5.64 Conditions at the registration centre for migrants and asylum seekers in the town of Pabrade, where 77 illegal immigrants were registered by the end of 1999, were reported to be have improved. [3a] The number of migrants in the centre has decreased thanks to return programmes financed by the international community. The European Union's Phare Programme is financing some structural improvements. However, additional efforts from the Lithuanian authorities are required. There are reports of beatings by the guards. In the autumn of 1998, lawyers' access to asylum seekers was frequently restricted or totally denied by the administration. In late 1998, negotiations were being carried out between the administration of the centre and the International Organisation for Migration, which has offered legal counselling of foreigners. In December 1998, the Ministry of Interior set up a working group to draft new internal regulations for the centre which would conform with principal human rights standards.[14b] [13b]

5.65 In 1997, Pabrade inmates complained about the quality of food including the fact that pork was also served to Muslims whose religion prohibited them from eating it, the absence of school education for refugee children and the fact that there were no premises designed specifically for religious services. The sanitary conditions were in an unacceptable condition. No bed linen, newspapers or books were provided and there was no possibility to communicate with relatives. The International Helsinki Federation for Human Rights concluded in its annual report that the conditions reflected the opinion of the centre's leadership, its director reportedly stating that "illegals must live here as in prison". Conditions for criminal suspects were in fact better than those in Pabrade Centre. The dissatisfaction of the inmates provoked protests which were at first peaceful, though in July 1997 the Centre became the scene of riots. A delegation from the Lithuanian Human Rights Association concluded that conditions and practices in the Foreigners Registration Centre did not conform with its own regulations. [13a]

5.66 A modern, well-equipped refugee reception centre opened in 1997 in the town of Rukla with approximately 200 residents. It is intended to help integrate those persons granted refugee status into society. As of the end of 1998, over 1,600 illegal immigrants either departed Lithuania of their own accord or were repatriated with international financial assistance.[3]

Homosexuals/Transsexuals

5.67 The rights of homosexuals as well as other sexual minorities in Lithuania are not restricted.

5.68 According to Law No 1-180 of 10 June 1995, an amendment was made in the Criminal Code abolishing penal responsibility for sexual intercourse between two men on the condition that no violence, menace or usage of one's higher position or helplessness was used to achieve the purpose and this was not done to a child. Prior to March 1994 such acts had been punishable under Article 119 of the Criminal Code [31]

5.69 The Ministry of Justice registered the Lithuanian Gay League and Sappho, the Lesbian League, in 1995 and the Movement for Sexual Freedom in 1996.[31]

5.70 The Lithuania Gay League nevertheless are concerned that there is hostility and discrimination towards gay people and cites the case of a homosexual man who was dismissed from his job because of his sexual orientation.[32][33]

5.71 There are no laws about transsexuals in Lithuania. It is not illegal for a man to dress as a woman but there is the possibility of negative public reaction.[11j] A television show is transmitted where transsexuals are able to speak of the problems they face.[11j]

5.72 Gender reassignment is in theory available in Lithuania but there is no information that any operations have been performed.[11j]

C. HUMAN RIGHTS: OTHER ISSUES

Freedom of Speech and the Press

6.1 The Constitution provides for freedom of speech and of the press. The government respects these rights in practice. [3a]

6.2 Freedom of the Press is extremely important to Lithuania and in June 1996 a Public Information Law was promulgated, regulating all aspects of information gathering and dissemination as well as the rights and responsibilities of journalists and the owners of the media. Public servants who attempted to impede the dissemination of information or who refused to provide information to the media could be held liable for their act. Any act or decision by State organs that hindered or restricted freedom of information could be appealed.[10b]

6.3 In October 1996 parliament voted an act governing the organisation and management of the national radio and television network.[10b] Prior restraint over either print or broadcast media on disclosure is prohibited unless the Government determines that national security is involved.[3a]

6.4 Under the new media law, the media are to create special ethics commission and an ombudsman was established to check libel cases and other complaints.[3a]

6.5 Proposals to amend the 1996 Law on the Provision of Information to the Public has met with opposition from media moguls who fear that changes will introduce censorship.[12b] The Lithuanian Journalists Union has also urged parliament to annul the existing amendment of the Criminal Code which stipulates imprisonment for illegal use of official secrets. [37a]

6.6 Journalists covering organised crime continue to receive threats to their safety and welfare.[3]

6.7 There are no restrictions on academic freedom.[3a]

Freedom of Peaceful Assembly and Association

6.8 The Constitution provides for these rights and the Government respects them in practice

6.9 Strikes are forbidden in areas of natural disaster as well as in regions under a state of emergency. They are also forbidden by Resolution 555 of the Government of the Republic Of Lithuania on Safeguarding the Normal Rhythm of Work at Energy, Communications and Transport Enterprises, Institutions and Organisations.[10c]

6.10 The Communist party of Lithuania and other organisations associated with the Soviet regime continue to be banned.[3a]

Workers' Rights

6.11 The Constitution and the 1991 Law on Trade Unions recognised the right of workers and

employees to form and join trade unions. The Law on Trade Unions formally extends this right to the police and armed forces but the Collective Agreements Law of 1991 does not allow collective bargaining by government employees involved in law enforcement and security work. The Law also provides for the right to strike although public officials providing essential services may not do so. [3] Only 10% of enterprises have trade unions.[3a]

6.12 Lithuania first became a member of the International Labour Organisation in 1921. After re-establishment of independence in 1990, it renewed its membership in 1991.[10c]

6.13 The Constitution prohibits forced labour by all, including children and this prohibition is observed in practice. Labour performed by convicts is regulated by the provisions of Chapter 8 of the Penitentiary Code which defines working conditions, compensation for work, salary deductions as well as the right to disability pensions for persons disabled during the execution of criminal penalties.[10a]

6.14 The legal minimum wage in 1998 was \$107.50 (430 litas) per month. This does not provide a decent standard of living for a worker and family. The average wage in the public sector is \$280 (1,122 litas) per month. [3a] Every three months the Council of Ministers and Ministry of Social Security submit their minimum wage proposals to the Seimas. Enforcement of the minimum wage is almost non-existent. The 40 hour work week is standard with provision for at least one 24 hour rest period. For a majority of the population, living standards remain low.[3a]

6.15 The Constitution provides that workers have the right to safe and healthy working conditions. The State Labour Inspection Service is charged with implementing the Labour Safety Law. In the first half of 1999, they received more than 2,000 complaints of which more than half were confirmed to be true. [3a]

6.16 According to the International Helsinki Federation for Human Rights Annual Report 1998, violations of trade union rights were associated with several problems: the inadequate legislation concerning trade unions which was in violation of both the Lithuanian Constitution and ILO Conventions as well as other international labour standards; decisions of the government, lower authorities and employers' organisations; and reluctance of employers to abide by the law or their failure to undertake required measures. [13b]

6.17 The International Helsinki Federation reported that the government tended to prepare legislation regarding labour laws without consulting trade unions.[13b]

6.18 The European Commission however concluded in their report on Lithuania's progress towards meeting the criteria for joining the EU, in November 1998 and October 1999, that trade unions are becoming more active and beginning to have an influence on public policy development. In 1998 about 15% of workers were registered trade union members.[8b][14a]

Freedom of Movement within the Country and Travel

6.19 Article 32 of the Constitution provides for the right of persons to move freely, to choose their place of residence and to leave Lithuania at their own will . The right may not be restricted except as provided by law and if it is necessary for the protection of State security or the health of the people for to administer justice. [10a][3a] Nevertheless, in contradiction, the law on emigration required persons leaving Lithuania to obtain the permission of the Ministry of Justice. This law was abrogated in March 2000.[9I]

6.20 A citizen may not be prevented from returning to Lithuania and every Lithuanian may settle in Lithuania.[10a]

Military Service

6.21 Military service is compulsory in Lithuania and lasts for 12 months. [1] There is however a long list of exemptions/postponements for those such as doctors, students, sick people etc. There have also been cases where the Minister of Defence has granted postponements.[11k]

6.22 The law on military service was passed in 1996. The Provisional Law on Compulsory Military Service provides for the possibility of an alternative labour service for those who have a conscientious objection to military service.[11k][10a] but it had not been implemented. A Commission was formed in February 2000 to decide applications for alternative military service.[9k]

6.23 Deliberate evasion of military service would involve a lengthy process of up to two years culminating in a fine being imposed. If this fine were not paid, the offender could face up to two years in prison. [11k]

6.24 Human rights violations committed by non-commissioned military personnel have declined. During the first 6 months of 1999, 6 criminal cases were brought against conscripts and officers compared to 34 in the previous year. The Ministry of Defence believes that a lack of professionalism among non-commissioned officers, rather than ethnic, regional or social factors is the primary factor in cases of hazing and it is working actively to improve the skills and judgements of such officers. A new disciplinary statute, approved in May 1999, provides procedures for investigation of disciplinary offences, assures the right to appeal and list the types of punishment. [3][3a]

6.25 **SKAT** is a legitimate organisation which forms part of the Lithuanian national defence forces under the jurisdiction of the Ministry of National Defence and equivalent to the National Guard. It was officially recognised in 1991 by law of the Supreme Court and re-organised in 1993 into more or less its present day form.[11l]

6.26 **DOSAAF** is the Russian acronym for SDAALR which means the Voluntary Society in support of the Army, Airforce and Navy. Membership of this organisation, or legally buying guns from it, would not merit arrest in Lithuania.[11m]

Rehabilitation and Genocide Trials

6.27 Government rehabilitation of over 50,000 persons charged with anti-Soviet crimes during the Stalin era led to reports in 1991 that some people alleged to have been involved in crimes against humanity during the Nazi occupation had benefited from this rehabilitation. A special judicial procedure was established to examine each case in which an individual or organisation had raised an objection that a rehabilitated persons might have committed a crime against humanity. In the first such cases since 1994, the Supreme Court overturned the rehabilitation of 22 persons during 1998.[3] In September 1998 the International Commission to Investigate the Crimes of Nazi and Soviet Occupation Regimes in Lithuania was established and began work three months later. [3a]

6.28 The Simon Wiesenthal Centre has urged Lithuania to ensure that Lithuania Nazi war criminals who return to Lithuania are prosecuted for their crimes committed during World War II.[9g] Despite this, prosecutions are likely to prove difficult because of the age and infirmity of some of the accused as well as the lapse of time since the alleged acts were committed.[36]

See paragraphs 5.40 - 5.42

Organised Crime

6.29 The crime rate growth in Lithuania has been influenced by the lack of adequate legal, social control and prevention systems as well as by economic factors. Timely measure were not taken to prevent the "non-traditional" organised crime such as extortion of property, forgery and money laundering, smuggling, drug and prostitution business and similar offences. Deficient legislation regulating business and financial activities along with gaps in taxation and tax administration system provided opportunities for the expansion of economic offences.[34]

6.30 In November 1997 the Government approved the Lithuanian Police Reform Guidelines. In order to grant a wider range of rights and responsibility to the territorial police stations, the structure of the Police Department as a managing institution was improved by clearly defining and managing operational functions. Officers of the internal affairs system are committed to putting in every effort to making life in Lithuania peaceful and safe.[34] The Law on the Prevention of Organised Crime, passed in July 1997, allowed for the application of preventive measures on a person who, by his actions, might restrict the rights and freedoms of other persons, create conditions for the emergence and development of social and economic preconditions or organised crime or pose a threat to public security.[3a]

6.31 The number of missing persons registered in the Lithuania Ministry of Interior has increased over the past 5 years. Most of the missing persons are young under age girls, many of whom have been recruited by criminal organisations to allegedly work as waitresses or nurses. It is feared that many have been forced to work as prostitutes or in other humiliating businesses with their passports or other identity documents seized by the dealers who threaten them with violence if they do not obey. Another group of missing persons are young men who have gone abroad on business matters and disappeared, probably after becoming involved with organised crime and other problems.[13b]

6.32 Money laundering remains a problem for Lithuania which is a transit country for narcotics trafficking and smuggling and for the transfer of funds of questionable origin. Lithuania has made significant progress in its legislative efforts to develop an anti-money laundering legislation in 1997. The legislation establishes a suspicious transaction reporting system that includes the automatic reporting of transactions or a series of related transactions exceeding \$12,500. The legislation also provides for the establishment of a financial intelligence unit, the Money Laundering Prevention Division.[35] The Lithuanian Snoras Bank is currently being investigated for suspected money-laundering.

6.33 The law prohibits trafficking in persons and provides for criminal liability for persons who engage in trafficking in persons for sexual abuse. However victims of such crimes tend not to approach the police or they refuse to provide information about the circumstances of the trafficking and sale, despite the police offer to provide protection for witnesses. [3a]

6.33 A law on Compatibility of Public and Private Interests in the Public Service was enacted in July 1997. Its purpose was to secure the impartiality of decisions and to prevent the emergence and spread of corruption in the public service. [8c] Corruption has been an on-going enforcement concern. Since Lithuania instituted its anti-corruption programme, 171 corrupt public officials have been dismissed. [35]

6.34 During 1998, the nature of Lithuania's substance abuse problem was characterised by an increased demand by young people for imported narcotic substances. [35]

6.35 Lithuania became a party to the 1988 UN Drug Convention in 1998. It has been working with European and US Government institutions to improve border security and prevent smuggling. Specific joint operations have been conducted with Moscow and Kalingrad region

police as well as customs officials in Germany.[35]

6.36 Lithuanian authorities have identified 74 organised groups involved in illegal narcotics activity. Amphetamine factories in Poland produce products that are smuggled through Lithuania into Scandinavia. As a result, the Government has determined that the control of the border area is critical to stopping the flow of illegal narcotics and counter-narcotics officers are currently assigned to the border regions.[35]

6.37 The Lithuanian Government continues to work with a variety of European and US institutions to strengthen law enforcement bodies and drug control programmes in an effort to improve border security and anti-smuggling efforts. Lithuania, Latvia and Estonia signed a tripartite cooperation agreement in November 1998 aimed at combating internal and international crime and illegal immigration in the Baltic States [35][6c]

6.38 The law to fight organised crime, passed in July 1997, stipulated that chief police officers or their deputies were entitled to place under "preventive -operative" surveillance for between 6 months and 2 years a person who was suspected of being involved in organised crime and had been officially warned to stop such activities. A police officer assigned to take operative actions could require that person to report to the police on a regular basis for clarification, to require the person to indicate the source of income, to make enquiries of his employer about the person and to oblige him to inform the police of any changes to his place of residence or regarding specific activities.[13a]

6.39 In 1999 the overall crime rate decreased by 1.3% compared to 1998. However drugs-related crimes have gone up by 12.3% and cases of rape and attempted rape have increased by 35.5%. An outbreak of violence in Panevezys prompted the President to call for a ruthless crackdown on the gangsters. Crimes there against teenage girls in which they were intimidated into sexual slavery had "gone beyond the pale" The chief prosecutor of the organised crime and corruption investigation department of the Panevezys Prosecutor's Office was assassinated in January 1999. His assassination was seen as a challenge to law and order in the country. [6d] Lithuanian police were aware of foreign criminal groupings interest in Lithuania which has prompted them to maintain closer contacts with law enforcement bodies abroad. [9h]

6.40 A set of new measures to strengthen the fight against the most dangerous criminal gangs and ways of improving the co-ordination of activities among law and order institutions was introduced and a joint decree authorising the establishment of interrogation task forces in all Lithuanian towns was signed.[17c]

6.41 A Commission to combat smuggling was set up in February 1999. The Prime Minister stated that he believed that all criminal gangs were fed by contraband money which is used for bribery and contract killings.[17d]

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