

Lithuania¹

IHF FOCUS: judicial system and fair trial; conditions in prisons and detention facilities; national and ethnic minorities; asylum seekers and immigrants; rights of the child; trafficking in human beings; social rights (labor rights).

Despite the fact that human rights issues took an increasingly important role in Lithuanian national politics in 2002, the practical implementation of human rights guarantees remained inadequate. Lithuania took part in the HURIST (human rights enforcement) program, initiated by the United Nations Development Program (UNDP), through which a plan for the protection and support of human rights was approved. However despite the fact that Lithuania's participation was an extremely positive development, it remains to be seen what the practical impact of the plan will be.

In 2002, as in previous years, only a small percentage of the Lithuanian population was aware that there are internationally recognized rights, which are guaranteed and can be protected. Although, in proportion to its population, Lithuania was among those countries whose citizens submitted the greatest number of complaints to the European Court of Human Rights, much more needed to be done by the state in terms of informing its citizens of their rights and protecting their exercise of those rights.

Illegal immigration, which has become an increasing problem for Lithuania in the last few years, remained an issue in 2002. Any illegal immigrants detained by the Lithuanian authorities were placed in refugee camps. In most cases their future was uncertain. Problems arose in the refugee camps both because of financial difficulties, which meant the conditions were often very poor, and because of the fact that people from different cultures and religions had to live closely together. In 2002 no serious efforts were made by the Lithuanian authorities to resolve these problems.

In 2002 the Seimas (Lithuanian parliament) adopted a new Civil Procedure Code and a Labor Code.² A new Criminal Code and Code on Criminal Procedure were also adopted and they will not come into force until May 2003. The adoption of this legislation was the result of attempts over several years to formulate domestic legislation, which reflects internationally recognized legal and human rights standards. However, the Lithuanian population's lack of knowledge regarding the content of this new legislation will probably impede its effectiveness.

Judicial System and Fair Trial

In 2002 the Lithuanian judicial system was in a state of transition with the new legislation mentioned above altering a system, which up until 2002 had in many ways resembled the Soviet system.

The main problems faced by the Lithuanian courts in 2002 related to the length of trials and the enormous backlog of cases pending in the courts. At the same time, the public confidence in the judicial system remained low, and the media continued to reinforce various negative attitudes. Lithuanian politicians often tried to influence court decisions, thereby jeopardizing the independence of judges.

¹ Based on the *Annual Report 2002* of the Lithuanian Human Rights Association.

² The codes entered into force on January 1, 2003.

In 2002 the number of court cases initiated continued to increase, and the Lithuanian authorities undertook to train the judiciary with the view to increasing the quality of legal proceedings.

Conditions in Prisons and Detention Facilities

Lithuania has ratified a number of international documents aimed at protecting the rights of prisoners, including the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the European Convention on Human Rights (ECHR) and the International Covenant on Civil and Political Rights (ICCPR). The main provisions have been incorporated into national legislation, although they have not always been respected in Lithuania.

Often Lithuanian officials treated detainees improperly and used unlawful violence. At times, prisoners' healthcare was not properly ensured. Problems of violence between individual prisoners or groups of convicts were resolved slowly. Pretrial detention regulations were also violated, and increasingly great restrictions were placed on detainees, who were also kept under worse conditions than prisoners.

The Lithuanian Human Rights Association received a number of complaints from prisoners and detainees, who highlighted two main problems: the behavior of prison officials and the poor conditions in detention facilities. Officials automatically treated persons in custody as though they were criminals, and used excessive force even in cases where a detainee did not resist. Especially worrying cases occurred when officials, certain of their impunity, broke the ribs and jaws of detainees, and seriously injured their internal organs. In such cases the abused person was not always given the necessary medical aid.

In 2002 the conditions in Lithuanian pre-trial detention facilities remained in violation of international standards. According to the Lithuanian authorities themselves, only eight out of 46 Lithuanian isolation cells met the requirements established by Lithuanian laws and hygienic norms. In general the cells were dark, had no windows, offered only provisional beds and lacked showers and toilets. Pre-trial detention facilities and prisons were overcrowded, and did not meet any standards related to the space requirement for one person. According to approved hygiene norms, the space per person in a cell should have been 5 m², however in Lithuania in 2001 only around 3.7 m² was allocated per person on average. Penitentiaries also existed where as many as six persons were kept in a space of 8 m².

In pre-trial detention facilities and other places of imprisonment the bedding and washing facilities were poor, and the food quality and amount did not conform with requirements (in 2001, LTL 2.32 or €0.67 was allocated per person per day for food).

Due to the poor conditions, Lithuanian prisoners repeatedly went on hunger strike, calling for the attention of the public and officials. However these strikes brought insignificant improvement to their conditions.

A number of prisoners' complaints concerned transportation conditions and the long duration of transportation. In 2001 (the latest available statistics), 167,090 people were transported by special motor vehicles or by train. The special motor vehicles contained metal boxes which were installed for those being transported. Conditions in the boxes involved unbearable heat in summer and extreme cold in winter. If transport was by rail a railway car was specially prepared and was divided into cells with plank-beds: up to 16 persons were placed in a cell of 3.5 m² in size. The journey usually took place at night, and the travel was long and arduous.

Corruption among prison officials reinforced the strict hierarchical system, which existed between convicts in Lithuanian prisons. Accordingly certain prisoners were afforded better conditions, were allowed to receive prohibited items from their relatives and were able to give other prisoners orders.

Any attempts by the Lithuanian authorities to curb drug use and trade in Lithuanian prisons were ineffective. The majority of prison inmates abused drugs and the availability of drugs in the prisons was almost absolute. As a result of drug abuse by inmates the spread of the HIV virus in prisons was a serious concern. In 2002, almost 300 inmates in the Altyus prison – all of whom were drug users – tested HIV positive. The Lithuanian authorities and the media devoted a lot of attention to this problem, but no effective action was taken to prevent the further spread of the virus.

Lithuanian prisons remained overcrowded and under-financed. Between 1990 – 2000 the Seimas adopted six amnesty acts in order to reduce the number of prisoners. However, such initiatives did not have the positive effect desired, and due to the difficult economic situation in the country and the lack of re-socialization and employment programs for former prisoners, many of those who benefited from the amnesties re-offended soon after.

The new Criminal Code, the Code of Criminal Procedure and the Code of Execution of Penalties, all scheduled to come into force in 2003, should quicken the criminal process and lessen the maximum legitimate duration of preventive detention. The new legislation should also mean that fewer persons are detained under the auspices of preventative detention, that general prison sentences are shortened and that alternative mechanisms of punishment to imprisonment are developed. The Code of Execution of Penalties will regulate the legal position of convicts, and extend opportunities for prisoners to avail of occupational and vocational training. However, the provisions will only improve the situation if Lithuanian officials are prepared to work under the new system. Lithuania's difficult economic situation and the absence of sufficient funds for the training of the police, state prosecutors and other law enforcement officials meant that the negative attitudes of many officials towards prisoners and the prison system had not changed.

National and Ethnic Minorities

In Lithuania, national minorities constitute 18.2% of the total population. Members of Lithuanian national minorities have the same rights and obligations as Lithuanians (although unlike Lithuanian majority citizens they are not required to pass an examination in the state language when applying for certain positions). The rights are laid out in the Lithuanian Constitution and in other legislation.

The Law on National Minorities was in force until June 1, 2002 and a new law was under preparation as of the end of 2002. On February 28, 1995, Lithuania signed the Framework Convention for the Protection of National Minorities of the Council of Europe, which was ratified on February 17, 2000.

In Lithuania in 2002, 213 schools operated in a language other than Lithuanian. There were 68 Russian-language schools, 74 Polish-language schools, one Belarusian- language school, with some of these schools also offering instruction through Lithuanian. Forty-nine minority language periodicals were published and 225 national minority organizations were operating. The government Department of National Minorities and Emigres, established to deal with national minority affairs, implemented programs such as "Encouragement of the Cultural Activities of the National Minority Communities," "The Roma Integration into Lithuania's Society," "The Social Development of Eastern Lithuania," "Support to the

Communities of Lithuanians Abroad,” and “The Formation and Implementation of the Policy on National Relations and Contacts of the State with Emigres.”

Minority communities were represented not only in the cultural life but also in the political life of the State. In 2002, the elections to the Municipality Councils took place with the participation of four parties of national minorities: the Lithuanian Polish election action received 50 mandates (this accounted for 3.2% of the total mandates), the Lithuanian Russian Union – 11, the Political Party Russian Ally – three, the Lithuanian Polish National Party – one mandate.

The Roma Minority

In 2002 the Lithuanian government devoted more attention to Roma problems than in previous years. This was mainly due to the fact that such attention was necessary if Lithuania was to comply with the mandatory European Union accession criteria.

There are approximately 3,000 Roma living in Lithuania. In 2002 their standard of living was remained remarkably lower than the Lithuanian norm. The Roma were generally perceived by the majority population as drug dealers and shady fortunetellers who cheat honest Lithuanian citizens. This perception made it difficult for the Roma community to integrate into Lithuanian society. The majority of Roma were illiterate, and this in turn prevented them from successfully advocating for their rights to education, work, housing, health care and the right to the use of social services.

In 2000, the Program of Roma Integration into the Lithuanian Society for 2001-2004 was adopted. This program aims to create conditions, which would facilitate the integration of the Roma ethnic minority into Lithuanian society and to improve the position of Roma residing in the Vilnius city area. The program provides for the organization of preschool education groups, courses in the state language, and legal consultations. These initiatives aim to ensure equal opportunities for Roma, with other residents of Lithuania, and to help the Roma community preserve their national identity. The program envisages support for cultural and educational activities of Lithuanian public organizations.

Asylum Seekers and Immigrants

At the beginning of 2002 there were 23,285 foreigners permanently residing in Lithuania and temporary residence permits had been issued to 4,800 aliens in 2001. In 2001 (latest available statistics), 425 applications for asylum were filed, of which 256 were applications for refugee status and 169 for temporary residence permits.

Aliens, applying for refugee status, mainly claimed that they had been, or would be, persecuted in their country of origin due to their nationality or political convictions. Those who filed applications for temporary residence permits based their applications on the impossibility of their return to their country of origin due to such things as military action, humanitarian crisis, or neglect in their home state of human rights and fundamental freedoms.

In 2002 the rights of immigrants and refugees in Lithuania constituted a new and rapidly developing area of law. On July 1, 1999 the Law on the Legal Status of Aliens of the Republic of Lithuania came into force and replaced previous legislation including the Law on the Legal Status of Aliens of the Republic of Lithuania, the Law on Immigration of the Republic of Lithuania and the Law on Emigration of the Republic of Lithuania. The new law laid the foundation for a uniform asylum system. On July 4, 1995 the Law on the Status of Refugees of the Republic of Lithuania was adopted. On January 21, 1997 the Seimas of the Republic of Lithuania ratified the 1951 Convention and the 1967 Protocol on the Status of

Refugees. These acts came into force on July 27, 1997 and since then the asylum system has been functioning. In 2002 the only ground for prohibiting the entry of an asylum seeker to Lithuania (prior to 2000, 10 grounds existed), was if a person sought to enter Lithuania from a “safe third country.”

Because legislation in this area was recent, no mechanism had yet been created in 2002, that would facilitate the implementation of all the provisions. Asylum seekers in Lithuania had a limited time in which to lodge a complaint against a decision denying them refugee status. Although theoretically they had seven days in which to lodge an appeal, during this time they could nonetheless face deportation. Stamp duties and the lack of available interpreters also contributed to the effective denial of an asylum seekers right of appeal.

In 2002 the Lithuanian legal system guaranteed to asylum seekers and immigrants the right to live in special reception centers, the right to state-guaranteed legal assistance and the right to free access to an interpreter. However in reality, legal, social and other assistance was not always provided in the reception centers.

The social and economic rights of foreigners in Lithuania depended on their status. Those granted refugee status enjoyed the same social security guarantees as Lithuanian citizens and 12-month integration programs were available for them. For those whose asylum applications were pending, there was no right to work or right to social and health protection, however asylum seekers were entitled to live in the reception centers for aliens, to use the services there provided and to receive a small monthly allowance.

Rights of the Child

Lithuania is signatory to a number of international instruments designed to protect the rights of the child. These include the Hague Convention on the Protection of the Child and Cooperation in Respect of Intercountry Adoption, the Convention on the Powers of the Authorities, the Law Applicable in Respect of the Protection of Minors, the Convention on the Law Applicable to Maintenance Obligations, the Convention on the Civil Aspects of International Child Abduction and the Protocol on Involvement of Children in Armed Conflicts. Lithuania has ratified the most important document concerning the rights of the child: the UN Convention on the Rights of the Child.

The domestic Lithuanian legal provisions in force in 2002, which dealt with the rights of the child, was the Law on the Fundamentals of the Protection of the Rights of the Child. Other national legislation detailed mechanisms for ensuring the implementation of the rights of the child. For example the Lithuanian Civil Code included restrictions on parental power and detailed the requirements for the registration of a child (which ensured the right of children to a name). Special provisions of the Lithuanian Criminal Code dealt with juvenile criminal responsibility.

The Lithuanian Law on Citizenship governed the citizenship of children: if, at the time of birth, both parents were Lithuanian citizens, a child became a citizen of Lithuania irrespective of the place of birth; if only one parent was a Lithuanian citizen, but the child was born in Lithuania, or the permanent place of residence of one parent was Lithuania, the child was also awarded Lithuanian citizenship. If the citizenship of the parents was different and their permanent place of residence was not Lithuania but one of them was Lithuanian citizen, then the citizenship of the child was determined by agreement of his/her parents.

The right of Lithuanian citizenship was ensured to children in cases where the parents were unknown. If the child's parents were themselves without citizenship, but they were permanently in Lithuania, the child was granted Lithuanian citizenship.

In 2002 mechanisms for protecting children from physical and/or sexual abuse in Lithuania, remained inadequate. Although the Convention on the Rights of the Child and national legislation proclaimed the right of a child to a safe and healthy environment, cases of violence against children were numerous in 2002. Physical and sexual abuse within the family was of specific concern. In Lithuania, many families failed to create a safe environment for their children. In 2001 (the latest available figures), the number of such families exceeded 18,000, and involved 40,000 children.

The Lithuanian government only recently accepted that physical and sexual child abuse constituted a serious problem in Lithuania and therefore specialists, the medical profession and the public lacked information. In 2002 the system of preventative measures was not well developed and there was no coordination between institutions, no centers equipped with the necessary facilities had been established (quite often no opportunity existed to examine the victim in a special room) and there was no effective system in place for the rehabilitation of abuse-victims. Victims of violence and sexual abuse generally asked NGOs for assistance instead of state institutions, and because of this numerous cases of sexual abuse went unregistered. In 2002 NGOs worked actively to promote awareness and to involve state authorities, public programs were developed and implemented, and proposals for the amendment of relevant legislation were submitted. In 2002, state institutions began to execute the National Program against Commercial and Sexual Exploitation of Children.

The rights of juvenile offenders remained insufficiently protected in 2002. Attempts were made to prevent the growth of juvenile delinquency, however the force of these measures did not correspond with the ages of the individual minors nor did the measures have an educational focus. Criminal responsibility began at 14 years of age. For children under 14, the state ran educational facilities in which the delinquents were placed. The UN Convention on the Rights of the Child specifies that children under 18 may only be detained or imprisoned in exceptional cases. However in Lithuania punishment varied only with regard to the strictness of the detention facilities in which juvenile offenders were placed. For example, in the year 1991-2000, one third of all convicted juvenile offenders were imprisoned. In 2003, a new Criminal Code will come into effect, which will move Lithuanian law further into line with international provisions, through detailing alternative punishments to imprisonment.

NGOs were more active in the field of children's rights than state institutions. However, the Institution of the Inspector for the Protection of the Rights of the Child was established in 2000 and was charged with drafting legislation ensuring the implementation of the UN Convention on the Rights of the Child and other national child protection instruments governing state activities, NGO activities and private activities which might violate the rights of the child. This institution is capable of creating and constituting a comprehensive mechanism for ensuring child protection. However, in order to function effectively for the protection of children's rights in Lithuania – not only in theory but in practice – a vast amount of work is necessary to effect meaningful change both in the public attitude towards children's rights and in the approach of Lithuanian state officials and institutions.

Trafficking in Human Beings

In 2002 as in previous years, Lithuania remained a country of origin, transit and destination for trafficked persons. Lithuania had a higher incidence of trafficking than any other Baltic State and the majority of those involved were young women taken to other countries to work as prostitutes. Although it was difficult calculate an exact number of victims, in trafficking cases brought before the German courts Lithuanian women were mentioned more frequently than any other nationality, including Russian, Ukrainian or Polish women.

In 2002 Lithuanian society still held the view that victims of trafficking who were forced to work as prostitutes should be held accountable for their own misfortune. The problem was often treated as a problem of illegal immigration, and as a result of this, women were left without any rights in the foreign country, and without protection. The trafficking of foreign women to Lithuania to engage in prostitution was a problem for Lithuanian law enforcement and this meant that attention which perhaps should have focused on the women involved was instead directed at combating the criminal activities of prostitutes and their managers.

Implementing police and health care measures did not solve the problem of trafficking in women in Lithuania, which has deep social causes. According to data from the National Labor Exchange, women constituted 48.4% of all unemployed persons in Lithuania, and on average, working women earned only 82% of men's wages.

Although Lithuanian legislation pertaining to trafficking was generally in line with international standards, certain discrepancies did exist in 2002. For example, Lithuanian legislation did not identify precise methods for compensating the damage (especially moral) caused to victims of trafficking, nor did legislation adequately protect victims of trafficking.

In 2002, the Lithuanian government approved the Program for Control and Prevention of Trafficking in Human Beings and Prostitution 2002-2004. This program was aimed at organizing a system for the control and prevention of trafficking and involved a broad range of prevention methods including educational, socio-economic and medical measures, as well as legal initiatives on both the domestic and the international level. Scientific, administrative, informative, analytical, financial and other measures aimed at combating and preventing trafficking were also envisaged. When this program is implemented, initiatives aimed at lessening the power of organized criminal groups may become more effective and conditions may be created for social, psychological and legal assistance to victims.

The program aims to improve the mechanisms for searching for missing persons, to provide information aimed at preventing trafficking, to facilitate research and to allow for the disclosure of trafficking statistics and details. If the program is effective, international cooperation will expand, assistance to NGOs will be granted, a preventive educational program will be implemented in Lithuanian schools and a computerized database of persons detained with false documents, suspected of pandering, missing, deported from foreign states and from Lithuania will be created by the State Border Protection Service under the auspices of the Ministry of the Interior. In addition, recommendations made by international organizations regarding the prevention of trafficking in human beings and prostitution will be implemented.

Labor Rights

In 2002, positive improvements were observed in the Lithuanian labor market. The official unemployment rate fell from 12% to 10%, the numbers engaged in illegal work fell as did the number of those illegal workers migrating to foreign countries. Another positive development was the increase in the Lithuanian average wage.

On June 4, 2002 the Seimas approved a new Labor Code which subsequently came into force on January 1, 2003 and which moves Lithuanian law into line with relevant EU Directives, ILO Conventions, international labor law norms and with the (revised) European Social Charter.

However, despite such positive developments, problems remained. The government program for increasing employment during 2001-2002 was improperly implemented and the program funds for creating jobs were not used. The labor market remained inflexible and there was poor territorial and professional mobility of the Lithuanian labor force. Training and re-qualification were under-funded and their importance sidelined, while the unemployment level differed substantially from region to region. Big cities often had high employment levels, due to the presence of industry and the developing service sector, while in contrast villages and small townships had high numbers of unemployed.

In 2002 the State Labor Inspectorate remained unable to control employers who did not declare their employees and who as a result did not pay taxes. As Lithuanian workers were afraid of repercussions from their employers if they joined trade unions, the percentage of the Lithuanian work force in trade unions members was the lowest in Europe: only 10–15% of Lithuanian workers were trade union members.

No labor courts had been established in Lithuania and although new labor laws and resolutions were adopted by the Lithuanian government, representatives of trade unions and employers' organizations were not allowed to participate in the working groups involved in the preparation of these laws.

In 2002, the obligation to compensate workers for injuries sustained at work was transferred from local authorities to the State Social Insurance Fund, which reduced compensation granted for loss of working-capacity. The Lithuanian government also enacted, without the input of employee and employer representatives, a procedure for calculating compensation for those afflicted with chronic diseases. Because of the methods of calculation provided for in the provision, those persons with chronic occupational diseases were effectively discriminated against as, under the provision mechanisms, they received less compensation than those suffering from other types of chronic illness.

Stress-related absence from work was not considered or investigated by Lithuanian state authorities in 2002.

In 2003 a new Code on Civil Procedure will come into force, which, in specifying that trade union lawyers are no longer allowed to represent and defend their union members on appeal to the Supreme Court, effectively violates provisions of the European Social Charter.

In 2002 Lithuanian law guaranteed certain rights for Lithuanian workers, however the practical and economic mechanisms necessary for the effective protection of these rights were not established. Because there were more workers than there were jobs, Lithuanian employers were effectively able to dictate working conditions. Employers worded employment contracts with terms favorable to them, leaving the worker with no employment guarantees.

The right of Lithuanian employees to better working conditions was also restricted by the power imbalance, which existed between employees and employers, as each employee was focused on ensuring the extension of his/her employment contract. According to Lithuanian legislation, workers should not have worked more than a 40 hour week, however, in 2002 many employees unofficially worked more hours.

Several years ago in Lithuania a provision was enacted which allowed the reduction of a pensioners state pension if they were still working. The reduction would differ in order to correspond with the amount the pensioner was earning. This provision was justified by the high level of unemployment, which existed in Lithuania at the time and the fact that in many ways by working, the pensioners were preventing young people from entering the labor force. The number of working pensioners in Lithuania was considerable, however such persons usually chose to work only because the old-age pension was vastly insufficient. Indeed in

2001 (latest available statistics) the average Lithuanian old-age pension amounted to 18.3 % of the average wage. At the end of 2002, the Lithuanian Constitutional Court decided that a persons exercise of their right to work should not limit any right he/she might also have to social security and an old-age pension. Because of this decision, the Lithuanian government made the appropriate legislative amendments.