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Lithuania

IHF Focus:

Missing persons; right to association (trade union rights); right to privacy and fair trial; conditions in prisons and detention facilities; treatment of asylum seekers and immigrants.

Over the past few years, Lithuania has undergone a number of reforms which have brought about positive changes regarding the protection of basic human rights. In the judicial system, laws on preventive detention were repealed, administrative detention was subjected to court review, and new legislation was adopted to require court warrants for pre-trial detention – issues which have all been major human rights concerns in the past. A new criminal code and other codes are being drafted, though at painstakingly slow pace. In December 1998, the Lithuanian parliament abolished the death penalty. Other improvements have also occurred, for example, concerning freedom of the media and access to information.

The Committee on Human and Civil Rights and Ethnic Minority Affairs was formed, in addition to the Ombudsman's Office, to deal with complaints of citizens who believe that their rights have been violated. On 16 December 1998, however, President Valdas Adamkus signed a controversial law on the parliamentary ombudsmen. This law stipulates that the parliament is to appoint five ombudsmen for four-year terms. The parliament appointed ombudsmen are not allowed to investigate activities of the president, prime minister, cabinet of ministers, lawmakers, judges, or other officials. This provision seriously weakens the idea of providing a defender of the rights of individuals. 1

The failure of Lithuanian officials to investigate cases of missing persons, many of whom have fallen victim to organized crime, and to take efficient measures to prevent future incidents remained a cause for concern. The prosecution of a prominent parliamentary deputy raised concerns about the operation of state security officials, respect of due process standards, and possible political motivations. Other concerns included the treatment of juvenile delinquents, illegal immigrants, and asylum seekers.

Missing Persons 2

The IHF has consultative status with the United Nations and the Council of Europe.

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In recent years, the number of missing persons registered by the Lithuania Ministry of the Interior has increased from 796 in 1995 to 402 registered cases in the first quarter of 1998 alone. Unfortunately, there are no precise statistics on the actual number of missing persons and authorities appeared to avoid taking up this issue in public, which has resulted in a lack of public awareness of the gravity of the problem.

Most of the missing persons are young, under age girls, many of whom have been recruited by criminal organizations to allegedly work as waitresses or nurses, for example, in Western Europe and Asia. It is feared that many have been forced to work as prostitutes or in other humiliating businesses, with their passports and other ID documents seized by the dealers who threaten with violence if they do not obey.

Another group of missing persons are young men who have gone abroad for business matters and disappeared, probably after becoming involved with organized crime and other problems.

Those individuals who have managed to return to Lithuania have often been arrested and charged with leaving the country illegally or possessing illegal documents.

No authority is concretely obligated to search for missing persons and investigate these cases; not even the police. According to the Ministry of the Interior, this is due to the incomplete reorganization of the law enforcement officials under its control. No public authority has coordinated the activities of other agencies to clarify such cases or prevent future cases.

Individuals were reluctant to produce evidence against those suspected of human trafficking, because the judicial system was still run by employees who had previously worked for the Soviet legal system, and the working methods of these employees had largely remained the same.

To address the problem in view of the inactivity of Lithuanian authorities, the Lithuanian Human Rights Association set up the Missing Persons' Families Support Center in 1996. Among its tasks are putting pressure on authorities to become active in clarifying cases of missing persons, preventing human trafficking, and carrying out information campaigns, e.g. in schools, to prevent future cases. It also supports the reintegration of those victims who have returned into society and offers them legal assistance, as well as supporting the relatives of missing persons.

Right to Association

Trade Union Rights 3

There were no changes in national legislation to improve the implementation of trade union rights. The Lithuanian Workers Union (LWU) appealed to the parliament and the government several times, asking them to change the discriminatory sixth clause of the trade union law, adopted in 1991, which stipulates a minimum number of 30 founding members to enable a trade union to register. This requirement was the main obstacle for the formation of free trade unions.

- In October, Visaginas municipality refused to register the statutes of Visaginas "Ateities," a union of school employees, because it could not present the required number of members. The LWU initiated a lawsuit against the municipality.

The Law on the Regulation of Collective Disputes, passed in 1992, provided for a restricted right to strike, and a complicated set of procedures before a strike was allowed. As a result, some strikes were declared illegal because these procedures were not followed.

Moreover, the allocation of Soviet era trade union property was not appropriately solved. One example was the fact that new trade unions had no rights of ownership to the premises they operated in. Only registered trade unions had a chance to own such property. In addition, a 1993 decision of the parliament stipulated that trade unions could be registered only if they presented a list of their members, including the members' ID codes, and places of residence and work. The Lithuanian Workers Union and Lithuanian Work Federation refused to abide by this resolution. Two other trade unions, LTUU and LTUC, presented lists of their membership from the Soviet era, and were declared legal owners of the whole property of the Soviet era trade unions, a decision which triggered conflicts between unions.

On the positive side, a tripartite general agreement between trade unions, employers, and the government was signed in February 1999. A tripartite council was set up to prepare a supplement to the 1991 law on collective agreements and collective labor agreements. The supplement would create a precondition to negotiate and sign bilateral agreements between employers and trade unions, and tripartite agreements of various levels. In June, the council approved a supplement to paragraph 37 of 1991 Law on Employment Contracts stipulating that the chairman of a trade union in

an enterprise will be protected from dismissal when the number of employers is reduced. The parliament, however, failed to amend the law accordingly.

Laima Digrilaite, chair of the workers' union of the joint stock company "Akmenes Cementas," was dismissed in April 1997 when several workers were laid off. At the same time, 30 new employees were hired. In March 1998, a regional court of Akmene district ruled that her dismissal was illegal and ordered that she be compensated Litas 3,800 (approximately US\$950). In April, however, an appeals court overturned the ruling, considering the dismissal legal. To repay the compensation, Digrilaite's flat was to be sold at auction. In December, the Lithuanian Supreme Court declared her appeal inadmissible.

Right to Privacy and Fair Trial 4

The prosecution of Audrius Butkevicius, member of Lithuanian parliament, raised human rights concerns. Butkevicius was arrested in October 1997, charged with several counts of corruption (article 274(3) of the criminal code). He allegedly agreed to offer a bribe of US\$300,000 from "Dega" company to Lithuanian authorities, in order to reach a positive financial settlement between that company and the US "Mobil" corporation due to material damages caused to the latter.

According to the Lithuanian Human Rights Association, this case was, from the very beginning, based on false information from the State Security Department, which claimed that the money would be used in the settlement of the proceedings against "Dega." The accusations could not be substantiated. Therefore, the stripping of Butkevicius' parliamentary immunity and his arrest were illegal. The evidence against him was based largely on audio tapes of his telephone conversations, obtained without a court warrant, which were used as evidence against him in court. Butkevicius' lawyer also claimed that the tapes had been tampered with, and that only four of nine conversations were presented to the court, in order to place the accused in a bad light. In addition, the court refused to hear witnesses proposed by the defense.

Moreover, Butkevicius' pre-trial detention was prolonged without the decision of a judge. This omission was confirmed by parliamentary ombudsman Julius Jasaitis, who noted that there were many other similar cases in which authorities had violated the law. Typically, he wrote, judges and prosecutors wrongly interpreted the law to mean that pre-trial detention would automatically be expanded when a case was

submitted to a court of law.

The trial against Butkevicius opened on 1 July. On 18 November, Audrius Butkevicius received a 5.5-year prison sentence, a fine of 50,000 Litas (approximately US\$12,500) and half of his property was ordered to be confiscated. On 7 February 1999 the court of appeal rejected Butkevicius' appeal.

Lustration Laws

The Lithuanian parliament took measures to exclude former staff members of the KGB from a wide range of state offices and jobs in the private sector.

On 25 June, the Lithuanian parliament adopted a law banning former KGB military officers from holding positions in government offices, state bodies, and certain jobs in key industries for ten years. The initiator of the law, Parliamentary Speaker Vytautas Landsbergis, also recommended that such persons not be allowed to work as lawyers, in key industries, in private security companies, or in the telecommunications sector. The law does not apply to those who left the KGB before 12 March 1990. President Adamkus vetoed the law, and submitted it to the Constitutional Court. The law did, however, go into effect on 1 January 1999, though the Court had not yet ruled on it. 5

In December, Landsbergis submitted the draft law On Assessing Communism and Defining High Posts for Former High-Ranking Officials of Occupational Regimes. This law proposed that former employees of the Communist Party be prevented from occupying state positions in the parliament, President's Office, government, courts, diplomatic services, army and educational institutions for five years. 6

On 10 December, the parliament passed a declaration describing communist and former structures of "communist occupation" as "criminal." It urged "legally and politically" weighting the suitability of "former active political collaborators of the occupation regime in Lithuania" to hold senior state posts. 7

Death Penalty

On 22 December, the Lithuanian parliament abolished the death penalty and commuted the sentences of all nine inmates on death row to life imprisonment. This

was done after the Constitutional Court, a few weeks earlier, ruled that capital punishment contravenes the country's basic law, violating the constitutional right to life and protection from cruelty. Therefore, the court ruled, it should be removed from the criminal code. Lithuania had imposed moratorium on the death penalty in 1995. 8
Conditions in Prisons and Detention Facilities

Juvenile Delinquents 9

The Lithuanian Human Rights Association initiated a survey in the Lukishkes pre-trial facility (Vilnius), with the intention of investigating conditions for juveniles held in pre-trial detention. This was the first time a survey was carried out on juvenile detainees using the distribution of questionnaires to gather first-hand information.

At the time of the survey, the Lukishkes facility accommodated 114 convicted juvenile inmates, including 11 girls. About 60 percent of the inmates were accused of theft. Those in pre-trial detention had to await trial for 6-12 months.

According to the Lithuanian Human Rights Association, physical conditions of the facility were relatively good: the cells were clean, spacious and painted in light colors. Inmates were allowed to wear their own clothing, and there were newspapers and magazines available in some cells, as well as various games.. However, apparently due to a lack of funding, there were no pictures, shelves, or books in the cells. Some juveniles were allowed to keep cats as a reward for good behavior.

All inmates were allowed two hours of daily, open air exercise. Radios were installed in each cell, and juveniles were sometimes taken out to watch TV (depending on their tutors). They were allowed a bath once a week. The facility administration claimed that the youths were not forced to shave their hair, but inmates claimed the opposite. Different figures were provided about the money available for daily nourishment, the sum of Litas 3 (US\$ 0.75) per adult appearing to be the most accurate figure. Juveniles did not have particular complaints about food.

During the survey, 21 cells, each accommodating five to six inmates, were visited. Eleven under-aged girls were held in one cell. During the survey, representatives of the Lithuanian Human Rights Association were accompanied by prison officers. The questionnaires were collected by the researchers themselves.

The survey revealed that nearly 50 percent of the juveniles said they had been

intimidated by the police, while 10 percent responded that they had not experienced any threats. Almost 45 percent of those who claimed to have been ill-treated said they had been beaten; over 38 percent claimed to have been subjected to torture by the police.

According to the survey, prison warders virtually never resorted to violence in pre-trial detention facilities, while abuse by fellow detainees was frequent.

The Lithuanian Human Rights Association concluded that, compared to 1995, the conditions in the Lukishkes pre-trial detention facility had improved. However, it criticized the long pretrial detention period, and the fact that no activities were organized to develop juveniles' personalities. Moreover, there was no vocational education organized for the inmates. The facility had no social workers, while a single psychologist was responsible for all inmates. The juveniles were allowed only limited contacts with relatives, and no contact with NGOs had been established. The survey showed that the majority of inmates were detained for minor thefts and that ill-treatment and sexual abuse by fellow inmates was commonplace.

Protection of Asylum Seekers and Immigrants

Foreigners Registration Center in Pabrade

The Foreigners Registration Center, situated in the town of Pabrade (50 kilometers from the capital, Vilnius), has been in operation since April 1996. The center was first under the control of the Vice-Minister of Interior, but since 1 January 1999 has been supervised by the Police Department of the Ministry of Interior.

According to regulations approved by the Minister of Interior in April 1997, the center is to serve as a temporary shelter for foreigners who do not have valid identity or travel documents to stay in Lithuania. In 1998, the center mainly hosted foreigners from Asian and African countries who had entered Lithuania illegally, were apprehended by Lithuanian police, and were awaiting deportation or voluntary return to their country of origin. A small number of asylum seekers were also held in the center, pending admission into asylum procedure.

At the end of 1998, the center accommodated more than 200 individuals, including about 30 asylum seekers. At the peak of illegal immigration in August 1997, the number of inhabitants in the center reached 950, more than twice its official capacity.

Although living conditions in the center improved in 1998, the internal order was, at the same time, tightened. Foreigners lived in detention-like conditions. They were allowed to leave the center only in exceptional circumstances, e.g. to receive medical treatment or participate in court hearings. Many were reportedly placed in solitary confinement for violating internal rules, a punishment as such not provided for in the regulations of the center, or other legal acts regulating the internal order of the facility. Some cases of beatings by the guards were reported in 1998, one of which was under investigation by the Prosecutor's Office.

Main concerns regarding the treatment of foreigners in the Pabrade center included: foreigners were held in de facto detention; legal assistance was available only to asylum applicants, and even to them it was often restricted; authorities had not organized any instruction for school-aged children.¹⁰

While Lithuanian law allows foreigners to be detained pending deportation, the period is limited to 30 days. Some foreigners, however, had been kept in the center for nearly two years. Such practices were not based on court decisions, and avenues of appeal were available against such treatment. In one such case, the detention was brought to the attention of a civil court, which, however, did not declare this practice illegal or in contradiction with main human rights instruments.

In the fall of 1998, lawyers' access to asylum seekers was frequently restricted or totally denied by the administration, despite the fact that there was an agreement between the center and lawyers providing legal counseling. In late 1998, negotiations were being carried out between the administration of the center and the International Organization for Migration (IOM), which has offered legal counseling of foreigners.

In December 1998, the Minister of Interior set up a working group to draft new internal regulations for the center, which would conform with principal international human rights standards.

FOOTNOTES:

1. RFE/RL Newswire, 17 December 1998.
2. Based on "Activities of the Missing Persons' Families Support Center," Lithuanian Human Rights Association, 1998.
3. Based on "Social Rights: Trade Unions," Lithuanian Human Rights Association, 1998.

4. Based on "Investigation of the Complaint by R. Andrikis, 07 01 1998 No. 97/03-2, Seimas, Ombudsman of the Republic of Lithuania"; and "Statement: Falsified Facts and Breaches of Law in A. Butkevicius Case," Lithuanian Human Rights Association, 8 September 1998. See also the IHF letter of 29 June 1998 to Prime Minister Gediminas Vagnorius.
5. RFE/RL Newslines, 29 June 1998 and 4 January 1999; information from the Lithuanian Human Rights Association.
6. RFE/RL Newslines, 9 December 1998.
7. RFE/RL Newslines, 11 December 1998.
8. RFE/RL Newslines, 10 and 22 December 1998.
9. Based on "Human Rights Situation in the Foreigners' Registration Center in Pabrade in 1998," Lithuanian Human Rights Association.
10. At the end of 1998, the International Organization for Migration started to arrange school education for the children staying in the center.

