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# **REPORT BY NILS MUIŽNIEKS**

COMMISSIONER FOR HUMAN RIGHTS  
OF THE COUNCIL OF EUROPE

**FOLLOWING HIS VISIT TO LITHUANIA  
FROM 5 TO 9 DECEMBER 2016**



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## SUMMARY

Commissioner Nils Muižnieks and his team visited Lithuania from 5 to 9 December 2016. During the visit, the Commissioner held discussions on issues pertaining to women's rights and gender equality; human rights of children; and human rights of persons with disabilities.

The present report focuses on the following major issues:

### **Women's rights and gender equality**

Gender equality is a basic principle of human rights, and women's rights are an inalienable, integral and indivisible part of universal human rights. The Commissioner's visit revealed that important progress has been achieved in Lithuania with regard to preventing and combating domestic and gender-based violence. However, several important challenges remain and should be addressed. The 2011 Law on Protection Against Domestic Violence should be harmonised with the provisions of the Criminal Code and Criminal Procedure Code. While there have been commendable efforts on the part of the police in preventing and effectively responding to instances of violence, it is important to ensure that law enforcement, prosecutorial and judicial authorities are all made fully aware of the important role incumbent upon them in protecting victims of violence from repeated cases of abuse. Furthermore, a unified and systematic approach to preventing violence and responding to calls for help should be adopted and promoted throughout the country.

Violence against women and domestic violence are rooted in entrenched societal inequalities between men and women that continue to be reproduced through stereotypes, out-dated education policies, and the lack of broader awareness about the scale and negative impact of violence against women on families and society as a whole. The Commissioner urges the Lithuanian Parliament to ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) which gives a roadmap for preventing and combating all forms of violence against women by providing mechanisms to progressively change the social norms and practices that reproduce it, and to ensure that the education system is free of gender bias and stereotypes. Non-governmental organisations play an instrumental role in providing assistance to victims of domestic violence and should be provided with adequate resources to be able to fulfil this function. Furthermore, the authorities are encouraged to adopt effective policies aimed at reducing the existing gender pay gaps in various industries.

### **Rights of children**

The legal and institutional framework for the protection of children's rights is largely in line with the international human rights obligations in this field. Lithuania is party to the UN Convention on the Rights of the Child and other relevant international conventions.

A considerable number of children deprived of parental care still reside in institutions. Deinstitutionalisation started with the adoption by the government of the De-I (deinstitutionalisation) Plan in 2014. The relevant legislation has been amended to allow the placement of the children younger than three in institutions only in exceptional circumstances. The Commissioner encourages the authorities to take strategic action to develop and strengthen alternative care models in family-type settings and to allocate more resources and assistance to guardians and foster care providers.

Commissioner Muižnieks urges the authorities to abolish the practice of placing minors with behavioural problems in "socialisation centres". Instead, every effort should be employed to ensure their full rehabilitation either in their families or in a family-like environment. The providers of social care should receive continuous and adequate training to enable them to carry out their functions efficiently and ensure that the children concerned do not remain relegated to the vicious circle of institutionalisation.

Lithuania has to develop a concrete and ambitious action plan to promote inclusive education addressing the situation of children with disabilities and other vulnerable groups. Special schools for children with disabilities have existed for a long time in Lithuania, and the prevailing misconception in society is that such children are best educated in segregated settings. The authorities should address the deficiencies in domestic legislation which support the practice of placing children with intellectual and psycho-social disabilities in special schools.

Improvement is necessary also in ensuring access of children with physical or sensory disabilities to mainstream schools. The authorities are urged to adopt all the necessary measures to clearly provide for and give effect to the right of persons with disabilities to inclusive education, and to plan the transfer of children with disabilities from special to mainstream educational establishments.

As regards violence against children, the Commissioner encourages the authorities to adopt a coordinated strategy at national level, with the involvement of all national and local actors, and to subsequently ensure effective and independent monitoring of its implementation. It should include concrete measures aimed at changing deeply-ingrained public attitudes towards resort to violence, including corporal punishment, as an acceptable approach towards “disciplining” children. Mandatory reporting by all relevant professionals of incidents of alleged violence against children is of paramount importance for creating a safe environment for children. The promotion of positive and non-violent forms of child-rearing should form a basis for the planning and implementation of policies related to children and the family.

The authorities should continue their efforts to provide adequate and systematic training and/or awareness-raising about children’s rights to professionals who work with and for children, most notably judges, lawyers, law enforcement officials, and other civil servants. Concrete measures should be taken to ensure that justice is child-friendly and quality psychological services are available for children, including in the framework of domestic violence-related judicial proceedings.

### **Rights of persons with disabilities**

While commending Lithuania for ratifying the CRPD, the Commissioner’s visit revealed that substantial efforts remain to be made towards deinstitutionalisation. At present, there are over 5000 persons with disabilities, including children, placed in institutions. The authorities have expressed a commitment to gradually move away from this practice, deinstitutionalise social care services and enable persons with disabilities to live independently within the community. However, the deinstitutionalisation process is proceeding at a very slow pace. The authorities are urged to bring a renewed impetus to the implementation of the national action plan for deinstitutionalisation of social care institutions and to actively involve persons with disabilities and their representative organisations into the process. As a first step, the authorities should refrain from any new placements of persons with disabilities in residential institutions.

Commissioner Muižnieks welcomes the start of legislative reforms of the legal capacity regime and encourages the authorities to ensure that substituted decision-making regimes are fully replaced by a flexible system of supported decision-making, based on individual consent. In the meantime, while the guardianship system remains in place, the authorities should ensure that persons placed under guardianship have effective access to judicial review proceedings to challenge the guardianship or the way in which it has been administered, as well as any other interference with their rights to legal capacity. They should always be recognised as persons with equal standing in courts and tribunals.

The authorities are invited to embark on the ambitious programme of reforms in the mental health care system aimed at drastically reducing and progressively eliminating coercive practices in psychiatry and gradually transforming the existing system which relies heavily on medication, hospitalisation or institutionalisation as the dominant forms of treatment and care for persons with psycho-social disabilities.

The authorities should ensure that persons with intellectual and psycho-social disabilities are not deprived of their right to vote or to be elected by any law limiting their legal capacity, by any judicial or other decision or by any other measure based on their disability, cognitive functioning or perceived capacity. Persons with reduced mobility should also be provided with an effective possibility to participate in the voting process. It is also imperative to ensure that people with disabilities enjoy full access to a wide range of infrastructure and services which are available to the public in general. Particular attention should be given to promoting, ensuring and monitoring the provision of reasonable accommodation for persons with disabilities, both in public and private sectors.

## INTRODUCTION

1. The Commissioner for Human Rights of the Council of Europe, Nils Muižnieks (the Commissioner), conducted a visit to Lithuania from 5 to 9 December 2016.<sup>1</sup> The visit focused on three sets of issues: women's rights and gender equality (section 1 of the present report); children's rights (section 2) and the rights of persons with disabilities (section 3).
2. In Vilnius, the Commissioner met with Mr Algirdas Butkevičius, acting Prime Minister; Mr Juozas Bernatoniš, acting Minister of Justice; Mr Tomas Žilinskas, acting Minister of Interior; Mr Linas Linkevičius, acting Minister of Foreign Affairs; Mr Algirdas Šešelgis, acting Deputy Minister of Social Affairs and Labour; Ms Jūratė Sabalienė and Mr Valentin Gavrilov, acting Deputy Ministers of Healthcare; Mr Neris Germanas, acting Deputy Minister of Foreign Affairs; Mr Žydrūnas Radišauskas, Deputy Prosecutor General; Mr Tomas Daukantas, Chancellor of the Ministry of Education and Science; and Mr Dovydas Špokauskas and Ms Marija Dautartaitė, Advisers to the President of the Republic of Lithuania. In the Parliament (Seimas), the Commissioner had meetings with Mr Algirdas Sysas, Chairman of the Social Affairs and Labour Committee; Mr Valerijus Simulik, Chairman of the Human Rights Committee; and members of the Lithuanian delegation to the Parliamentary Assembly of the Council of Europe.
3. The Commissioner engaged in dialogue with representatives of the national human rights structures: the Parliamentary (Seimas) Ombudspersons, Mr Augustinas Normantas (Head of the Office) and Mr Raimondas Šukys; the Ombudsperson for Children's Rights, Ms Edita Žiobienė; the Equal Opportunities Ombudsperson, Ms Agneta Skardžiuvienė, and the Inspector of Journalist Ethics, Ms Gražina Ramanauskaitė-Tiumenevienė. The Commissioner also met with civil society representatives.
4. The Commissioner visited the Vilnius residence for children with developmental delays and the Vėliučionys socialisation centre for minors in the capital's vicinity.
5. During his visit, the Commissioner also addressed the conference "Women's Rights in Lithuania: achievements and challenges", focusing specifically on the need for ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), and participated in a panel discussion on "The role of freedom of expression in promoting human rights". He also attended the opening of the exhibition "Women-Superheroes" by photo artist Ms Neringa Rekašiūtė, which featured photographic portraits of women who were taking steps to rebuild their lives after experiencing domestic violence.
6. In Vilnius, the Commissioner also met civil society representatives from Belarus to discuss issues pertaining to the situation of human rights defenders in that country.
7. The Commissioner would like to thank the Lithuanian authorities in Strasbourg and Vilnius for their assistance in organising and facilitating the visit. He is grateful to all his interlocutors for sharing their knowledge and insights with him.

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<sup>1</sup> The Commissioner was accompanied by Ms Bojana Urumova, Deputy to the Director of his Office, and Ms Olena Petsun, Adviser.

## 1 WOMEN'S RIGHTS AND GENDER EQUALITY

### 1.1 LEGISLATIVE AND POLICY FRAMEWORK

8. Lithuania is party to several important international human rights instruments on the protection of women's rights and the elimination of discrimination against women: the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR), which provide for a duty to ensure equal rights of women and men as regards the enjoyment of economic, social, cultural, civil and political rights, and the Convention on the Elimination of All Forms of Discrimination against Women, with its Optional Protocol that recognises the competence of the Committee on the Elimination of Discrimination against Women (CEDAW, the body that monitors compliance with that Convention) to receive complaints from individuals or groups.
9. At the level of the Council of Europe, the standards in the area of women's rights and gender equality applicable to Lithuania include the European Convention on Human Rights and the jurisprudence of the European Court of Human Rights, the Revised European Social Charter, as well as the relevant recommendations of the Committee of Ministers to Council of Europe member states.<sup>2</sup>
10. Article 29 of the Lithuanian Constitution provides for the principle of equality "before the law, courts, and other state institutions and officials". It specifically mentions that "[...] no one may be granted any privileges on the grounds of gender[...]". The Law on Equal Opportunities for Women and Men, adopted in 1998, is the principal legal act regulating issues related to gender equality. It prohibits both direct and indirect discrimination against men and women, and ensures a legal obligation for state and private institutions to implement gender equality principles in employment, education, and science. Since 2002 this Law regulates also equality between women and men in access to and supply of goods and services. In addition to a prohibition against giving priority to one of the sexes in employment and education advertisements, employers must not ask job seekers about their age, marital status, private life and family plans.
11. The Law on Equal Treatment empowers the Equal Opportunities Ombudsperson to supervise the law's implementation and investigate complaints related to perceived violations of the principle of equal treatment. The Ombudsperson is also mandated to monitor compliance with the provisions of the Law on Equal Opportunities for Women and Men by examining complaints concerning discrimination and harassment, conducting independent investigations, and submitting any findings and proposals to the relevant institutions. Out of the total number of 260 complaints received by the Office in 2016, 42 were related to discrimination on the ground of gender. However, gender-based discrimination was the subject of the majority - 50 out of 68 - investigations carried out at the initiative of the Ombudsperson. All but one of the 50 investigations were carried out into alleged gender-based discrimination in the context of employment, mostly in relation to discriminatory job advertisements. Several other investigations involved sexist advertisements of goods and services.
12. The Lithuanian national programme on equal opportunities for women and men 2015–2021 aims to promote equal opportunities in occupation and employment. The programme sets three goals: reduce wage differences; reduce sectorial and professional segregation in the labour market; and increase opportunities for women, especially those living in rural areas, to launch and develop businesses. There is also the Inter-institutional Action Plan for the Promotion of Non-discrimination (2015–2020) which envisages measures such as public awareness-raising campaigns and training for various professional groups, including employers and journalists, and dissemination of information about the activities of the Office of Equal Opportunities Ombudsperson.
13. Lithuania has a solid legal framework on combating domestic violence, with the Law on Protection against Domestic Violence that has been in force since 2011. In 2013, the Criminal Code and the Code of Criminal Procedure were amended in order to bring them in line with that law. The amendments

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<sup>2</sup> [Recommendations of the Committee of Ministers.](#)

provided that a pre-trial investigation must be initiated in all cases where the offence bears elements of domestic violence, even in the absence of a complaint by the victim or a statement by the victim's legal representative. Amendments to the Law on Protection against Domestic Violence introduced in 2013-2014 clarified the funding procedure for measures to prevent such violence. While municipalities must provide for specific measures in their strategic plans, the Government has to fund prevention activities carried out by non-governmental organisations. The amendments also repealed a particular provision of the law, which had frequently been interpreted as an imperative to obtain the victim's written consent to pass on the details of a violent incident, together with the victim's contact details, to specialised assistance centres. After the amendments entered into force, police officers must only inform victims that they will be contacted by a specialised assistance centre and then immediately notify the local centre about the incident. In October 2016, further amendments were introduced to this Law, with a view to establishing concrete mechanisms of inter-institutional co-ordination and co-operation. They provide for the organisation of general and specialised inter-institutional training on protection against domestic violence for all institutional stakeholders, as well as establishing the position of a co-ordinator in charge of prevention of domestic violence at the municipal level. Newly adopted provisions would also allow for measures for protection of victims of domestic violence in cases where there is no sufficient data to launch a pre-trial investigation.<sup>3</sup> There is also a National Programme for the Prevention of Domestic Violence and Provision of Assistance to Victims for 2014-2020, as well as a corresponding Action Plan.

## 1.2 GENDER EQUALITY

14. With a score of 40.2 as compared to an EU average of 52.9 (on a scale from 1 to 100 under the Gender Equality Index, from total gender inequality to complete equality), Lithuania ranked 22 out of the 28 EU member states in 2015. According to statistical data related to earnings, in 2015, the average gross monthly earnings of women amounted to 84.5% of those of men. The wage of men exceeded the wage of women in all economic activities, except transportation and storage,<sup>4</sup> and the gender pay gap in the private sector (17.3%) was greater than in the public sector (16.3%). The largest gender pay gap was recorded in the financial and insurance industries (38.5%) and in information and communication (29.5%). The gender pay gap in industrial, construction and service enterprises excluding public administration and defence accounted for 14.8% in 2014, which was lower than the average EU figure of 16.1% for that year.
15. Based on the data from the Statistical Register of Economic Entities, in 2015, 29,500 women were enterprise managers, or 30% of the total number of managers of economic entities. The largest proportion of women enterprise managers was registered in inpatient care (64%), health care and social work (62%) and education (60%), and the lowest in the construction industry (9%). Overall, in health care and social work women made up 85.2% of all employees; up to 78.6% in education, and 76.7% in accommodation and food services. In the construction industry, men made up 88.9% of all employees, and 74.4% in transportation and storage.<sup>5</sup>
16. The Commissioner was informed that the situation with respect to gender inequality is particularly marked within the academic community, where men mainly occupy the highest management positions, while women are relegated to the lowest level administrative positions. In this respect, the Guidance on Ensuring Equal Opportunities in Lithuanian Research and Higher Education Institutions (adopted in December 2014) includes several proposals addressed to relevant institutions with possible measures to ensure systemic gender mainstreaming in all policy and activity areas, improve gender balance in various research areas, and increase the share of women in senior research and decision making positions.

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<sup>3</sup> On 21 September 2016, the Parliament also adopted Resolution No XII-2629 on Ensuring Protection from Domestic Violence. It is aimed at taking more effective preventive measures and providing effective assistance to victims, most notably children, ensuring the systematic and targeted collection of statistical data to assess the trends in combating domestic violence, and ensuring better identification of cases of such violence.

<sup>4</sup> European Social Charter, European Committee of Social Rights, Conclusions 2016, Lithuania, page 644.

<sup>5</sup> Women and Men in Lithuania, 2015, page 44 (accessed at <http://www.socmin.lt/en/social-report.html>).



17. Several of the Commissioner's interlocutors confirmed that the practice whereby employers ask women about their family situation and future family plans when considering them for a job vacancy is still rather common in Lithuania. The new Labour Code, adopted by the Parliament in September 2016, entered into force on 1 January 2017. The principle of respect of the employee's family commitments (work-life balance) is incorporated in the new Labour Code, which obliges the employer to take measures to help the employee fulfill his or her family commitments. Further, the employer is obliged to implement the principles of gender equality and non-discrimination, which entail the prohibition of direct and indirect discrimination, and of psychological and sexual harassment. The employer must apply the same selection criteria and conditions when hiring new employees; provide equal working conditions, opportunities for professional development, and benefits; apply equal and uniform criteria for dismissal; pay equal wages for the same work and for work of equal value; and take measures to prevent psychological and sexual harassment in the workplace.
18. In 2016, the awareness raising campaign "For Competence" was launched by the Office of the Equal Opportunities Ombudsperson. It addresses the need to choose employees according to their competence rather than considering factors such as sex, age or other aspects of their identity. Co-operation is envisaged with the Lithuanian Association of Temporary Employment Agencies, job ad portals, and organisations of employers, with a view to challenging stereotypes that favour persons of a particular gender for specific jobs.

### 1.3 VIOLENCE AGAINST WOMEN

19. In its July 2014 Concluding Observations on Lithuania, CEDAW identified the fight against violence against women as one of the key priority areas for Lithuania. It recommended to adopt a comprehensive strategy to supplement the National Programme for the Preventing of Domestic Violence and Provision of Assistance to Victims for 2014-2020 and to eliminate all forms of public or private sex- and gender-based violence against women; to regularly collect, analyse and publish data on cases of all forms of violence against women and girls that have been reported, investigated and prosecuted; and to establish crisis and walk-in centres that offer protection and assistance to all women who are victims of violence. It also recommended ratification of the Istanbul Convention.<sup>6</sup>
20. In the case of *Valiulienė v Lithuania* of 2013,<sup>7</sup> the European Court of Human Rights found a violation of Article 3. The case concerned a complaint by a woman who was a victim of domestic violence about the authorities' failure to investigate her allegations of ill-treatment and to bring her partner to account. The Court found that the application by the authorities of the Code of Criminal Procedure in that case had not provided Ms Valiulienė with adequate protection against acts of domestic violence, as there had been delays in the criminal investigation and the public prosecutor had decided to discontinue the investigation.
21. Violence against women is rooted in women's unequal status in society, and that status reflects the unbalanced distribution of social, political, and economic power among women and men in society. It is one of the most pervasive human rights violations of our time and a form of discrimination that results in, or is likely to result in, physical, sexual, psychological or economic harm or suffering to women. Violence against women undermines women's dignity and integrity and imposes serious harm on families, communities and societies.
22. The full extent of violence against women is difficult to estimate. Violence against women continues to be under-reported and stigmatised, meaning that the cases reported are only a fraction of the violence occurring in reality. In Lithuania, 69% of the population tends to trust the police, which is close to the figure in the EU overall (71%). It is estimated that in Lithuania, 31% of women have experienced violence, which is close to the EU average. The European Institute for Gender Equality has

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<sup>6</sup> CEDAW/C/LTU/CO/5, paragraph 23.

<sup>7</sup> Judgment of 26 March 2013.

estimated that the cost of intimate partner violence against women in Lithuania could amount to EUR 600 million per year.<sup>8</sup>

23. The results of the 2014 survey by the EU Fundamental Rights Agency (FRA) showed that from the age of 15, 31% of women in Lithuania experienced physical and/or sexual violence; 8% of women have been stalked; and 35% experienced sexual harassment.<sup>9</sup>
24. According to the 2016 Eurobarometer survey, within the EU area, Lithuanians are most likely to justify sexual and psychological violence in intimate partnerships. More than a quarter of the Lithuanian population believes that forcing a partner to have sex should not be prohibited by law. Only 57% of respondents in Lithuania believe that sexual violence against a partner is or should be prohibited by law, while the EU average is 87%. Equally low proportions of Lithuanian respondents (58%) believe that controlling behaviour towards a partner of an emotional and/or economic nature (restricting contacts with family and friends, confiscating mobile telephones and/or personal documents) is or should be considered a crime (EU average - 78%).<sup>10</sup>

#### 1.4 ENFORCEMENT OF LEGISLATION IN FORCE AND PREVENTION MEASURES

25. Since 2012, a network of specialised assistance centres providing support to victims of domestic violence, financed by the state budget but administered by civil society organisations, has been functioning in Lithuania. The aim is to guarantee provision of specialised integrated assistance to victims of domestic violence. These centres support victims of violence, inform them about what kind of assistance they can obtain and where. They also provide mediation, psychological and legal assistance, and represent victims in other institutions, and assist them in restoring interpersonal relationships with family members.
26. Lithuania has 17 such centres. In 2015, a total of 11,432 victims of domestic violence were registered in them, including 1,138 who asked for help on their own initiative and 10,294 who were referred by the police. Assistance was provided to 10,591 persons, including 8,208 women, 862 men and 1,521 children. The most frequent services requested were information and consultation (in 17,018 cases), psychological support (in 4,226 cases) and legal assistance (in 2,540 cases).<sup>11</sup>
27. Victims of domestic violence can receive specialised assistance at crisis centres and temporary accommodation centres for mothers and children. According to information provided by the Ministry of Social Affairs and Labour, there are 29 crisis centres and 5 temporary accommodation centres for mothers and children. There is also a national women's helpline which operates around the clock and provides psychological assistance for victims of domestic violence.
28. In Lithuania, provisions relating to protection orders can be found in civil, administrative and criminal law. Emergency barring orders are available under administrative law provisions for victims of domestic violence only. Within civil law, protection orders can be issued as provisional measures pending the outcome of divorce or separation proceedings. The criminal justice system provides protection orders at the pre-trial and post-trial stage.
29. During his meetings in the Ministry of Interior, the Commissioner was informed that in 2016 police received more than 45,000 domestic violence-related calls (in 2015, the number of calls was approximately 40,000). According to official statistics, in 2015, 5,200 women and 319 men were

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<sup>8</sup> European Gender Equality Institute, Combating violence against women, Lithuania (accessed at [http://eige.europa.eu/sites/default/files/documents/2016.5483\\_mh0116748enn\\_pdfweb\\_20170215171919.pdf](http://eige.europa.eu/sites/default/files/documents/2016.5483_mh0116748enn_pdfweb_20170215171919.pdf)).

<sup>9</sup> European Agency for Fundamental Rights, Violence against women: an EU-wide survey – Main results, Publications Office of the European Union, Luxembourg, 2014.

<sup>10</sup> Special Eurobarometer 449: Gender-based violence; Lithuania Factsheet (accessed at [https://data.europa.eu/euodp/en/data/dataset/S2115\\_85\\_3\\_449\\_ENG](https://data.europa.eu/euodp/en/data/dataset/S2115_85_3_449_ENG))  
<http://ec.europa.eu/COMMFrontOffice/publicopinion/index.cfm/Survey/getSurveyDetail/instruments/SPECIAL/surveyKy/2115>.

<sup>11</sup> National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, A/HRC/WG.6/26/LTU/1, page 6.

registered as victims of domestic violence.<sup>12</sup> In more than 80% of cases of domestic violence the victims are women and in more than 90% cases the perpetrators are men, according to information gathered by police and prosecutorial authorities.

30. In the view of several of the Commissioner's interlocutors, the police has been quite effective in responding to calls for help in cases of domestic violence. At the same time, there is a lack of clarity in the law as to whether it is a police officer or a prosecutor who should address the court with a request to issue a protection measure. This leads to a lack of coherence between the practice in different courts, because certain judges refrain from applying a protection measure when requested to do so by a police officer. Furthermore, there is still no unified and systematic approach within the law enforcement system as to how to deal with domestic violence cases, or a well-established methodology for assessing the risk of secondary or repeat victimisation.
31. In 2015, the National Audit Office carried out an evaluation of the system of protection for victims of domestic violence. While analysing preliminary investigations launched in the second half of 2014, it found that in almost half of the cases (43%) the alleged perpetrators of violence were not subjected to any measures which would ensure the victim's protection. Furthermore, in 11% of the cases, victims were subjected to repeated violence while the investigation was still underway. Of the preliminary investigations reviewed by the auditors, 10% involved perpetrators with prior convictions for domestic violence, but no protection measures for the victims were applied in those cases.<sup>13</sup>
32. Several of the Commissioner's interlocutors signalled problems such as limited monitoring and enforcement of protection orders, a low number of prosecutions and sentences in domestic violence cases, as well as excessive resort to "reconciliatory mediation" for victims of domestic violence. Reportedly, only about a third of complaints of domestic violence result in pre-trial investigations and even fewer lead to formal criminal charges and are referred to the courts. A substantial number of pre-trial investigations are either never launched, or are terminated or result in "reconciliation" between the victim and the offender, which often endangers the life and health of the victims of domestic violence, who are mostly women and children. Victims of domestic violence are treated in criminal proceedings as victims of any other crime, without taking into account their vulnerability and special protection needs. This reportedly stems from the fact that protection measures envisaged by the Law on Protection Against Domestic Violence are included in the same chapter of the Criminal Procedure Code as remand measures. This means that judges tend to apply the same high evidentiary threshold in such cases as they do when considering motions for detention on remand.
33. There are specialised prosecutors in Lithuania dealing with domestic violence cases. According to information provided by the Prosecutor General's office, 8969 pre-trial investigations related to domestic violence<sup>14</sup> were carried out in 2016. Of those, 5097 investigations were terminated and 3872 sent to the courts. In 2016, 25 persons accused of criminal offences under Article 140(2) of the Criminal Code were acquitted and 3175 were found guilty. Nine cases were examined by the appeal courts in 2016.
34. Another issue raised by some of the Commissioner's interlocutors relates to reporting about domestic violence by medical professionals. While emergency medical doctors in the hospitals usually inform the police about cases involving victims with visible signs of a violently assault, family doctors tend not to report such cases and refer to the privacy requirement in the doctor-patient relationship and their obligation not to disclose medical information without the expressly stated consent of the patient.
35. The Commissioner strongly believes that in order to efficiently address the root causes of violence against women and eliminate discrimination based on gender, the education system should be free from gender bias and stereotypes. Based on his discussions with the officials in the Ministry of

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<sup>12</sup> Women and Men in Lithuania, 2015, page 72 (accessed at <http://www.socmin.lt/en/social-report.html>)

<sup>13</sup> Executive summary of the public audit report "Organising protection against domestic violence", 15 May 2015 (accessed at [www.vkontrole.lt](http://www.vkontrole.lt)).

<sup>14</sup> Based on Article 140(2) of the Criminal Code of the Republic of Lithuania (causing physical pain or a negligible health impairment to a close relative or family member).

Education and Science he formed an impression that while there were relevant requirements in connection to textbooks used in the educational process, they are neither systematically monitored nor evaluated as to their compliance.

36. Media also plays an important role in promoting and perpetuating existing stereotypes. He discussed this issue with the Inspector of Journalist Ethics who informed him that those cases which were brought to her attention in connection to either gender bias or sexist messages, in her assessment, were falling within the scope of the freedom of expression.
37. The Commissioner was informed that the campaign “For a Safe Lithuania,” initiated by the President (see also paragraph 74) and aimed at addressing various social problems, devotes attention inter alia to the root causes of domestic violence and promotes a message of “zero-tolerance” of such violence throughout society.

## 1.5 RATIFICATION OF THE ISTANBUL CONVENTION

38. Lithuania signed the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) on 7 June 2013, but has not yet ratified it. During his meetings with various interlocutors, most notably in the Parliament, the Commissioner urged the newly elected legislature to proceed promptly with ratification of that Convention.
39. Civil society actors in Lithuania have expressed their concern that the public debates related to the ratification of the Istanbul Convention quite often feature inaccurate information and misrepresentation by opponents of the Convention, most notably with regard to its main principles and aims. Such discussions quite often reveal a strong gender bias and stereotypical attitudes which frequently downplay the disproportionately high impact of domestic violence on women and mischaracterise the Convention as a threat to family values. The Commissioner strongly encouraged the authorities to ensure that debates related to the ratification of the Istanbul Convention are based on factual information and evidence-based research in order to provide an accurate picture of the situation.
40. The Commissioner would like to stress that the Istanbul Convention extends protection against violence to all persons, and not only women. In its preamble, the Convention expressly recognises that “men may also be victims of domestic violence”. Other affected groups include children, older persons and persons with disabilities, who also frequently become victims of violence in the family. At the same time, the general pattern throughout Europe – which is also confirmed by the data provided by law enforcement authorities in Lithuania – reveals that, in the vast majority of cases, it is women who are subjected to violence inflicted by men.
41. The Istanbul Convention is the first legally-binding instrument in Europe that comprehensively addresses these issues. By defining violence against women “as a violation of human rights and a form of discrimination against women”, the Convention makes it clear that violence against women and domestic violence cannot solely be considered as private matters, and that states have an obligation to prevent violence, protect victims and punish the perpetrators. It also sets up a comprehensive monitoring mechanism, which covers all member states, and facilitates the exchange of expertise and good practices across Europe.

## 1.6 SITUATION OF WOMEN WITH DISABILITIES

42. In 2014, the government conducted a survey on the situation of women with disabilities, which had shown that 81% faced challenges in the fields of employment, education, culture, housing, healthcare, social services, legal assistance, business loans, and participation in economic and public life. The National Programme on Equal Opportunities for Women and Men 2015-2021 includes measures aimed at improving the situation of women belonging to different groups.
43. In its Concluding Observations on the initial report of Lithuania, the Committee on the Rights of Persons with Disabilities recommended to “[...] revise its action plan for the National Programme on

Equal Opportunities for Women and Men 2015-2021 to include an explicit focus on prevention and eradication of discrimination against women and girls with disabilities, including multiple and intersectional discrimination, as well as measures for their development, advancement and empowerment, in particular to foster their participation in public life".<sup>15</sup>

44. Both the Committee on the Rights of Persons with Disabilities and the Committee on the Elimination of Discrimination Against Women recommended strengthening the protection of persons with disabilities, particularly women and girls with disabilities, against violence, exploitation and abuse, by establishing inclusive and accessible victim support services, including accessible hotlines, shelters and complaints and reporting mechanisms.<sup>16</sup>

## 1.7 CONCLUSIONS AND RECOMMENDATIONS

45. Gender equality is a basic principle of human rights, and women's rights are an inalienable, integral and indivisible part of universal human rights. Equal treatment that fully integrates the principle of inherent equality between women and men is a prerequisite for social justice, democracy, good governance and economic development.
46. The Commissioner urges the authorities to develop and implement long-term strategies and action plans that fully apply the principle of gender equality across all sectors and promote women's participation in public and political life. Such policy documents should envisage concrete activities, with clear, time-bound targets, identified duty-bearers in charge of implementation and corresponding budgetary resources. They should also include an independent evaluation mechanism and provide for co-ordination and co-operation with various stakeholders at the national and local levels, including civil society organisations. Relevant and reliable disaggregated data is also a pre-condition for providing a sound base-line for specific actions to address the real needs and gaps related to women's rights and gender equality.
47. The Commissioner commends Lithuania on its legislation related to preventing and combating domestic violence, as well as efforts made by the law enforcement authorities, most notably the police, to effectively address this issue. He nevertheless recommends a review of the existing legislation in order to eliminate any existing discrepancies between the Law on Protection Against Domestic Violence and the Criminal Code and Criminal Procedure Code, most notably with regard to the application of protection measures. He further recommends to continue building capacity, including through continuous training, for law enforcement, prosecutorial and judicial authorities, with a view to enabling them to effectively identify and investigate cases of violence, prosecute and ensure adequate punishment of the perpetrators, and provide protection to the victims. The Law on Protection Against Domestic Violence must be applied correctly, and specific efforts in this regard are required from judges, who should be made fully aware of the important role they play in protecting the victims, preventing repeated instances of abuse and bringing the perpetrators to justice. Furthermore, a unified and systematic approach to preventing violence and responding to calls for help should be developed and consistently applied throughout the country.
48. The Commissioner also stresses the need to provide sufficient funding to establish and run specialised women's centres and shelters, including those accessible to children and women with disabilities. Civil society organisations deserve recognition and encouragement for providing much-needed assistance, advice and support to the victims of domestic violence. The Commissioner calls on the authorities to allocate sufficient funding for the activities of specialised assistance centres, in view of the growing number of victims who may require their services.
49. While welcoming the signature by Lithuania of the Istanbul Convention, the Commissioner calls on the authorities, most notably the recently-elected Parliament, to ratify it without further delay. It is of utmost importance to ensure that any discussions related to the ratification are based on accurate and factual information, including evidence-based research and gender-disaggregated data to explain the

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<sup>15</sup> CRPD/C/LTU/CO/1, paragraph 16.

<sup>16</sup> CRPD/C/LTU/CO/1, paragraph 35 and CEDAW/C/LTU/CO/5, paragraph 39.

true nature and scope of the problems of violence against women and domestic violence and the measures envisaged in the Istanbul Convention to respond to and prevent those phenomena.

50. The Commissioner's official interlocutors have recognised the need to take further decisive actions to prevent and combat violence against women and domestic violence, and the legislation in place reflects the shift towards understanding this kind of violence as a serious violation of human rights. At the same time, deeply-ingrained stereotypes and prejudices about gender roles and the principle of gender equality - which still persist in the Lithuanian society – have to be continuously challenged. Such lingering stereotypes can have a negative impact on policy-making with respect to women's rights in many areas, including on women's sexual and reproductive health and rights. The educational system can play an important part in either dissipating or cementing such stereotypes. Therefore, the Commissioner encourages the authorities to invest in an educational system which is free from gender bias and emphasises equality between girls and boys, and women and men.
51. The Commissioner takes note of the active role played by certain political and community leaders in raising public awareness about the root causes and consequences of domestic violence in Lithuania, including through participating and supporting the relevant part of the campaign "For a Safe Lithuania". He further calls on the politicians, in particular men, to become actively involved in the relevant public debates and send a clear message of zero-tolerance to all forms of violence against women.

### 2.1 LEGAL AND POLICY FRAMEWORK FOR CHILD PROTECTION

52. Lithuania is a party to the UN Convention on the Rights of the Child, the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (“the Lanzarote Convention”), and the UN Convention on the Rights of Persons with Disabilities and its Optional Protocol.
53. The Law on Fundamentals of Protection of the Rights of the Child defines the main rights, freedoms and duties of a child. It also guarantees the protection of the child’s rights and defines the duties and responsibilities of the children’s rights protection institutions, parents, and other entities.<sup>17</sup> Every child has a right to live with his or her parents, to be brought up in the family environment and have regular communication with his or her parents, regardless of whether or not they live together, unless that contradicts the best interests of the child, or the law provides otherwise.<sup>18</sup> This right is enshrined in both the Civil Code and the Law on Fundamentals of the Protection of the Rights of the Child.<sup>19</sup>
54. Children’s legal protection against violence was reinforced after the Law on Protection Against Domestic Violence entered into force in 2011. This Law covers the protection of all persons, who experience domestic violence in the immediate environment, including children who either become witnesses to domestic violence or live in a violent environment.<sup>20</sup> Following the Commissioner’s visit, on 14 February 2017, during a special session devoted to protection of children’s rights, the Lithuanian Parliament banned all forms of violence against children, including corporal punishment.<sup>21</sup>
55. In 2003, the Parliament approved a “Conceptual Framework of the State Policy on Child Welfare”. In 2012, a “Child Wellbeing Programme” for 2013-2018 was approved. Between 2011 and 2015, a National Programme for the prevention of violence against children and providing assistance to children was implemented, and in 2016, an “Action Plan on the Provision of Combined Services to a Family for 2016-2020” was launched. The foregoing policy documents are aimed at ensuring a safe environment conducive to the child’s development, either in a biological family or, in the absence of such family, in a family of foster or adoptive parents. They also include measures to develop and provide preventive and integrated services for children and their families, and to ensure adequate conditions for guardianship or adoptions, which correspond to the best interests of the child. Efforts are to be directed towards ensuring the availability of services for children from poor families or those at social risk.
56. The child rights protection system in Lithuania is decentralised, and the level of protection of children as well as the approaches to inter-agency cooperation vary across municipalities. The Child Rights Protection and Adoption Service under the Ministry of Social Affairs and Labour has a rather limited function and no direct authority vis-à-vis the local child rights protection services. Some of the Commissioner’s interlocutors considered that this resulted in fragmented and poorly coordinated or inconsistent practices, where the interventions of child rights services may either be tardy or ineffective. Apparently, the services also lack uniform practical tools to assess situations and respond efficiently to the needs of children having regard to individual circumstances.
57. The Ombudsperson for Children’s Rights – established in 2000 - is mandated to defend the rights and interests of children and to exercise supervision and control over the actions of public authorities related to children. The Ombudsperson can conduct investigations, request information and evidence,

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<sup>17</sup> Adopted by the Committee at its sixty-fourth session (16 September – 4 October 2013), CRC/C/LTU/CO/3-4.

<sup>18</sup> Article 3.161 of the Civil Code.

<sup>19</sup> Article 23 of the Law on Fundamentals of Protection of the Rights of the Child.

<sup>20</sup> Article 2(4) of the Law on Protection Against Domestic Violence.

<sup>21</sup> On 14 February 2017, a new draft Law on Fundamentals of Protection of the Rights of the Child was submitted to the Parliament. It aims at establishing a coherent system of assistance to families, including reinforcement of social work with children and families.

propose legislation and policy aimed at strengthening protection of children's rights, and ensures regular reporting about the main issues affecting the situation of children.

## 2.2 CHILDREN IN ALTERNATIVE CARE

58. In its Concluding observations on the combined third and fourth periodic reports of Lithuania,<sup>22</sup> the Committee on the Rights of the Child expressed a number of concerns related to the situation of children deprived of a family environment, most notably: a) the large number of cases of deprivation of parental rights and the placement of children, particularly those under the age of 3, in care institutions; b) the lack of clear guidelines on the separation of children from their families; c) the very low number of foster families and the inadequate support they receive; d) the poor living conditions and limited space in care institutions; and e) the lack of a system to monitor non-governmental children's homes, which often fail to comply with the legal requirements for hygiene, quality of services and space.<sup>23</sup>
59. In 2014, the National Audit Office of Lithuania carried out a comprehensive assessment of the child care system in Lithuania, finding that it was not efficient and that it failed to ensure that children's best interests were always protected or their needs properly met. While the reform of the child care system started back in 2007, most of the expected results were not achieved due to a failure to adequately plan and implement the required measures. The number of children in residential care institutions had not decreased for years; one third of the care institutions were overcrowded. The auditors found that the system in place did not encourage child care in a family-type environment: there were few incentives for people to become guardians and a lack of adequate access to social services. Quite often such services were not available close to the place of residence of families with children or foster families.<sup>24</sup>
60. The Guidelines for Deinstitutionalisation of the Social Care Homes for Children with Disabilities, Children Deprived of Parental Care and Adults with Disabilities were approved in November 2012 and the Action Plan on Transition from Institutional Care to Family and Community-Based Services for People with Disabilities and Children Deprived of Parental Care for 2014-2020 was approved in February 2014 (see also paragraphs 118 and 124-126). There are plans to reorganise 26 care institutions by 2020, including 16 (out of 95) care homes for children. Since the entry into force on 1 January 2017 of legal amendments to the Civil Code prohibiting the placement of children younger than three in institutions except for exceptional cases (see paragraph 63 below), all five infant homes operating in the country will be reorganised.
61. At the time of the Commissioner's visit, infants up to the age of three who were without parental care were still staying in residential infant homes (officially called "homes for infants with developmental delays"), which are medical facilities under the responsibility of the Ministry of Healthcare. As was highlighted by several of the Commissioner's interlocutors, most of the children placed in such institutions did not in reality have any disabilities. However, most of them were diagnosed as having certain developmental disorders, which in turn, may have subsequently undermined their prospects of finding adoptive or foster parents. The aforementioned situation is of deep concern to the Commissioner.
62. When visiting the care home situated in Vilnius, the Commissioner had a discussion with its management about the forthcoming reorganisation. He was informed, inter alia, that the number of places available would be increased to provide day care to families who have children with disabilities

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<sup>22</sup> Adopted on 4 October 2013.

<sup>23</sup> CRC/C/LTU/CO/3-4, paragraph 33.

<sup>24</sup> National Audit Office: the child care system fails to meet the needs of children in care, 11 February 2014 (accessed at [https://www.vkontrole.lt/aktualiju\\_archyvas\\_en.aspx?metai=2014](https://www.vkontrole.lt/aktualiju_archyvas_en.aspx?metai=2014)).



and may require assistance of specialists to care for their children for a few hours during the day or for several days at a time.

63. As of 1 January 2017, in line with legislative amendments to the Civil Code adopted in 2015, temporary guardianship of a child (foster care) may not last longer than twelve months, and guardianship of a child under three years of age may take place in a child care institution only in exceptional cases and for no longer than three months except for cases where approved by the institution for the following objective reasons: 1) the child needs specialised health care and/or nursing, the provision of which cannot be ensured in a family or social family;<sup>25</sup> or 2) the separation of siblings would be against the child's best interests; or 3) where the child is placed under guardianship because he or she has to be taken away from a family without delay and there is no possibility to place the child under guardianship in another family or social family.
64. The Civil Code of the Republic of Lithuania regulates three forms of guardianship (foster care): in a family, in a social family, or in an institution. When placing any child under guardianship, the following principles must be followed: the best interests of the child as the primary concern; close relatives of the child have the right of priority to become guardians if this is in the best interests of the child; and non-separation of brothers and sisters except for cases where this is in conflict with the child's best interests.<sup>26</sup>
65. According to official statistics, as of late 2015, 9220 children (4682 boys and 4538 girls) were deprived of parental care, which represents 464 fewer children than in 2014 and 1322 fewer than in 2012. In 2015, 59.6% (5 493) of all children placed under guardianship (foster care) were raised in the families of guardians (foster parents), 4.9% (452) in social families, and 35.5% (3275) in institutions. The share of children placed under institutional guardianship as compared to all children deprived of parental care had decreased at a slow but steady rate over the past years (it was 38.3% in 2012, 37.7% in late 2013, and 36.8% in late 2014).
66. According to a report by the Ministry of Social Affairs and Labour, of the 1837 children deprived of parental care in 2015, 727 were previously being raised in their biological families by one of the parents. Physical or psychological abuse was the reason for deprivation of parental care in 69% of all cases. In the same year, 65.2% of children deprived of parental care and under the age of three were placed under institutional guardianship.
67. In late 2015, 2431 cases of permanent institutional guardianship and 844 cases of temporary institutional guardianship were registered. The number of children transferred from institutional to family guardianship increased (from 138 in 2014 to 210 in 2015); in contrast, the number of those transferred from institutions to "social families" decreased (from 36 in 2014 to nine in 2015). In 2015, the majority of children in institutional guardianship (foster care), i.e 1817 out of 3275, were placed in municipal child care homes, and the smallest share - 25 children - were accommodated in other institutions (e.g. crisis centres, social services centres, etc).<sup>27</sup>
68. The Commissioner considers that such a high rate of institutionalisation is quite problematic from the point of view of children's rights. He recalls that the [UN Guidelines for alternative care of children](#) provides that "[r]emoval of a child from the care of the family should be seen as a measure of last resort and should, whenever possible, be temporary and for the shortest possible duration".<sup>28</sup> Furthermore, they state that "[t]he use of residential care should be limited to cases where such a

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<sup>25</sup> According to Article 3.260 of the Civil Code, "[a] child's guardianship (curatorship) in a social family is the form of guardianship where a legal person (social family) has under its guardianship or curatorship 6 or more children (the total number of children in a social family including the parents' natural children may not exceed 12) in a family environment.

<sup>26</sup> Article 3.249 of the Civil Code.

<sup>27</sup> Ministry of Social Affairs and Labour, The Social Report, 2012-2016, page 102 (accessed at <http://www.socmin.lt/en/social-report.html>).

<sup>28</sup> Paragraph 14.

setting is specifically appropriate, necessary and constructive for the individual child concerned and in his/her best interests”.<sup>29</sup>

69. Several of the Commissioner’s interlocutors voiced the concern that, having regard to the lack of short-term social services, the existing child care system needed trained professional foster parents who would be appropriately remunerated and could accept children and infants for short- or long-term foster care at any time of the day and take care of them for the time necessary, until such children are either reunited with their families or adoptive parents are found.
70. According to official statistics, in 2015, orientation training for those wishing to become guardians (foster parents) and/or adoptive parents was attended by 599 persons (391 families), including 400 persons (287 families) wishing to become foster parents and 199 persons (104 families) wishing to adopt. Between 2012 and the first quarter of 2016, 3005 persons wishing to become guardians (foster parents) or adoptive parents were trained.
71. On average, approximately 100 children are adopted in Lithuania every year. In the period between 2012 and 2015, 3317 guardians (foster parents) and adoptive parents attended on-going training.<sup>30</sup> At the same time, while in 2005 the number of families who had children in their guardianship stood at 5942 (with 7777 children registered under family guardianship), in 2014 this figure decreased to 4483 families (5681 children) and became even lower in 2015 (4385 families with 5493 children).<sup>31</sup>
72. The Commissioner’s view is that the authorities should take a strategic approach towards preventing child neglect and providing multifaceted support to families experiencing difficulties in caring for their children, including by establishing an efficiently-functioning network of community-based services for such families. The foster care system should be further strengthened, including by allocating adequate resources and providing on-going support to foster parents. Other forms of alternative care, such as professional foster care, should also be promoted and developed.
73. In December 2015, the Parliament adopted amendments to the Law on Social Services which provide that the assistance of certified social workers and other specialists shall be available at all times to families taking care of children, guardians (foster parents), adoptive parents and social families in every municipality. In order to have at least two social workers in each municipality, the State Child Rights Protection and Adoption Service organised certification training in 2015. Even so, the available data suggests that on average one social worker works with 30 families and children, whereas the established practice recommends one social worker for up to 15 children.
74. One of the aims of the above-mentioned (see paragraph 37) nationwide social campaign “For a Safe Lithuania” initiated by the Lithuanian President - which involves joint efforts by NGOs, local communities and municipalities, social workers, public institutions, education and cultural establishments, and business and media – is to promote adoption and foster parenting and increase assistance to the most vulnerable families.

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<sup>29</sup> Paragraph 21.

<sup>30</sup> *Ibid*, page 103.

<sup>31</sup> Women and Men in Lithuania, 2015, page 21 (accessed at <http://www.socmin.lt/en/social-report.html>).

## 2.3 CHILDREN IN “SOCIALISATION CENTRES”

75. The Law on Fundamentals of the Protection of the Rights of the Child envisages placement in a special educational and disciplinary institution if a child below the age of criminal responsibility is involved in criminal activity and/or has committed a crime, but also in cases of minor offences or even as a result of behavioural problems (delinquent behaviour). The decision is based on the recommendation of the relevant institution (care home or a special municipal commission) and a court authorisation. “Socialisation centres” are defined in the Law on Minimum and Medium Child Care as public secondary schools providing medium care (education, care and other assistance) of the child.<sup>32</sup> Children are generally accepted in “socialisation centres” from the age of 14, but in exceptional circumstances younger children may also be admitted to these centres, for instance, when the child’s behaviour poses a risk to other people’s life, health and/or property. The Ministry of Education is in charge of the “socialisation centres” in Lithuania.
76. In 2013, the National Audit Office carried out an audit of the effectiveness of children’s “socialisation centres” in Lithuania. The auditors found that the conditions for effective socialisation of children were not met. Moreover, there was a lack of cooperation between key governmental institutions responsible for ensuring effective care of children in such institutions, and statistical data on repeated criminal behaviour after discharge from a “socialisation centre” were not collected. Auditors made recommendations on ensuring the effectiveness of medium child care measures, personalising the assistance provided to each child, and promoting better re-socialisation during placement in a “socialisation centre” and after leaving it.<sup>33</sup>
77. The auditors also found that in approximately 50% of the cases, a medium child care measure was applied because of a lack of results following previous application of such measures. This prompted the National Audit Service to look into the efficiency of the implementation of the minimum child care measures through a further evaluation carried out in 2015, which found that the choice of the implementer of a minimum care measure did not sufficiently take into account the individual needs of the children. In most cases, the implementer was a school; however, in many cases, the establishment concerned had already exhausted all of its available educational assistance measures. There was a clear lack of access to specialised support for children living in rural areas, both in terms of the lack of institutions which could have been appointed as implementers, as well as of social and educational support programmes focused on children with behavioural issues. Furthermore, targeted funding had not been allocated for the implementation of such measures. The audit also revealed a lack of monitoring of the implementation of minimum child care measures and their effectiveness, insufficient co-operation between institutions recommending and implementing the measures, and insufficient work with the child’s family and environment.<sup>34</sup>
78. In its Concluding observations on the third periodic report of Lithuania, the UN Committee against Torture recommended to “[r]eview “socialisation centres” where minors are held in de facto administrative detention and ensure effective monitoring of such institutions in order to prevent any breach of the Convention”.<sup>35</sup> In 2015, the Seimas Ombudsman voiced his strong concerns in relation to practices which were observed in the “socialisation centres” visited by him and his team which could amount to cruel, inhuman or degrading treatment or punishment. For instance, in the Kaunas

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<sup>32</sup>The Law on Minimum and Medium Child Care was adopted on 27 June 2007 and its amendments came into force on 1 January 2011. One of its purposes is to create a system of minimum care measures aimed at educating and providing social support to children with behavioural problems, with a view to helping them to overcome those problems. The idea is to foster positive behavioural changes and instil values and social skills which will eventually help the children concerned become good, independent and responsible citizens.

<sup>33</sup> National Audit Office, Annual Report 2013, page 22 (accessed at [https://www.vkontrole.lt/en/docs/Annual\\_Report\\_2013\\_NAOL.pdf](https://www.vkontrole.lt/en/docs/Annual_Report_2013_NAOL.pdf)).

<sup>34</sup>The Efficiency of the Minimum Child Care measures Necessary to Ensure Child Support, Executive summary of the public audit report, 20 March 2015 (accessed at [https://www.vkontrole.lt/audito\\_ataskaitos\\_en.aspx?tipas=15](https://www.vkontrole.lt/audito_ataskaitos_en.aspx?tipas=15)).

<sup>35</sup> CAT/C/LTU/CO/3, paragraph 11(b).

“socialisation centre” the use of special means – such as handcuffs, tear gas and rubber stick – was noted. In several “socialisation centres” children were kept for up to 24 hours in complete isolation.<sup>36</sup>

79. By the end of 2014, approximately 245 minors resided in six “socialisation centres” and a special education centre in Švėkšna. A large proportion of those persons came from residential care institutions, while others were from families at social risk. According to information provided by the Ministry of Education and Science at a press-conference in October 2016, at the end of 2015, 131 minors (87 boys and 44 girls) resided in socialisation centres, approximately half of whom had previously lived in social care institutions. There was reportedly a growing number of children placed in socialisation centres due to absenteeism from school; the number of such placements was almost three times higher than the number of placements due to offences committed by the children concerned. The number of placements of children younger than 14 years of age was also on the rise. Such a situation is of deep concern to the Commissioner.
80. During his visit to Lithuania, the Commissioner went to the Vėliučionys socialisation centre situated in the vicinity of Vilnius, situated on the premises of a Soviet-era colony for juvenile delinquents. The Commissioner met with the centre’s management, staff and residents. Based on his discussions with various interlocutors, he formed the impression that many children are placed in such an institution not because the offences they have committed might have justified doing so, but due to the absence of real alternatives such as provision of adequate support and rehabilitation services in their families or in a family-like environment. The Commissioner regrets that the socialisation centres have not been included in the on-going deinstitutionalisation process, and would like to recall that, according to the UN Convention on the Rights of the Child, any deprivation of liberty of children should only be considered as a last resort and for the shortest possible period of time.

## 2.4 INCLUSIVE EDUCATION

81. There are about 15,000 persons under 18 with disabilities in Lithuania. The UN Convention on the Rights of Persons with Disabilities (CRPD) establishes the obligation to provide an inclusive education system for such persons.
82. The Law on Education envisages that “[e]ducation of learners with special educational needs shall be implemented by all schools that provide compulsory and universally available education, other education providers and, in certain cases, by schools (classes) designated for education of learners with special educational needs”.<sup>37</sup> Article 34 of the Law specifies that “[a]t the request of the parents or guardians of a learner with special needs, conditions shall be created for them to study at a pre-school education and general education school located close to their home or at any state, municipal or regional school designated for learners with special educational needs. The pedagogical-psychological service shall recommend a school for the child”. The same article states that it is the responsibility of a municipality where the person lives to ensure access to education and that this should be done “...by adapting the school environment, by providing psychological, special pedagogical, special and social-pedagogical assistance, by supplying schools with technical aids and special teaching aids, and in other ways as prescribed by law”.
83. The Committee on the Rights of Persons with Disabilities in its Concluding observations on the initial report of Lithuania recommended to “[...] adopt and implement a coherent strategy on inclusive education in the mainstream educational system in accordance with article 24 of the Convention [...]”,<sup>38</sup> which would, inter alia, “[e]nsure the accessibility of school environments, the provision of

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<sup>36</sup> [The Seimas Ombudsman raises doubts about the need of the relaxation rooms in children socialisation centres, press-release](#), 30 January 2015.

<sup>37</sup> Law on Education, Article 14.7, accessible on

[http://planipolis.iiep.unesco.org/upload/Lithuania/Lithuania\\_Law\\_amending\\_Law-on-education\\_2011.pdf](http://planipolis.iiep.unesco.org/upload/Lithuania/Lithuania_Law_amending_Law-on-education_2011.pdf).

<sup>38</sup> CRPD/C/LTU/CO/1, paragraph 46.

reasonable accommodation, accessible and adapted materials and curricula, and the compulsory pre-service and in-service training of all teachers on inclusive education”.<sup>39</sup>

84. Lithuania has a tradition of special schools for children with various disabilities, and this practice has seldom been questioned due to prevailing misconceptions in society that such children are best educated in segregated settings. The majority of children with intellectual and psycho-social disabilities attend special schools, which are segregated from mainstream educational systems and facilities. Many children with disabilities, particularly those with visual, auditory, psycho-social or intellectual impairment, continue to attend special schools either because they have been referred to them or are obliged to attend them due to a lack of reasonable accommodation and accessibility in the mainstream educational system. In many other cases, children with disabilities are faced with an option of either attending special schools or receive home schooling.
85. During the 2014–2015 school year, more than 3600 students were attending 48 special schools and five schools that form part of “multifunctional centres”. Of those, 92.6% attended municipal special schools. The average number of students in each special school in 2014 was 75. Most of the special schools (26) were for students with intellectual disabilities.
86. Several of the Commissioner’s interlocutors noted that the integration of children with disabilities in mainstream education was - in theory - possible under the current domestic legal framework. However, factors such as the historically rooted marginalisation of persons with disabilities, the lack of willingness and preparedness of schools to provide inclusive education to children with disabilities, the absence of an adequate financing system to provide incentives or support to mainstream education, and insufficient awareness of the public concerning the right to receive inclusive education, contribute to the continuing channeling of children with disabilities into special education or home schooling.
87. The Commissioner also received reports that access to buildings for students with disabilities remained problematic. According to the information provided by the Lithuanian Disability Forum, out of 109 schools inspected in the 2011-2015 period, only 16.5% were accessible to people with disabilities, with 31.2% having limited accessibility and 52.3% being completely inaccessible. The inspection also covered 14 higher education establishments with a total of 48 buildings, and found that only 40% of those were adapted to the needs of students with reduced mobility. The remainder had no elevators, stair lifts or detectable warning surfaces to notify of changes in level, with obstacles en route to the assembly halls. This is not in line with the principle of reasonable accommodation enshrined in the UN CRPD and Article 9 of the Convention requiring from member states that they should “ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas”.
88. The officials at the Ministry of Education acknowledged that improvement was necessary with respect to building a barrier-free environment aimed at the inclusive education of children with impaired mobility. They have informed the Commissioner that the adjustment of the school premises to the needs of students with disabilities was carried out gradually, in the framework of the planned renovation works on the school buildings. This inaccessibility also has repercussions on the right to vote, since the local polling stations for elections are usually located in the school buildings, so if they are not accessible for people with restricted mobility, this directly affects their ability to take part in the voting process (see more information in paragraph 156 below).
89. According to the interim implementation report of the Lithuanian National Programme of the Integration of Persons with Disabilities 2013-2019, the Ministry of Education did not implement any measures towards improving the education of pupils with special needs in 2015, although it was initially planned that EUR 1.5 million would be allocated from EU funding. The report underlined in particular that there was excessive resort to home schooling, both by parents and because of the recommendations of specialists. This practice – which should be the exception – also distorts the

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<sup>39</sup> *Ibid*, paragraph 46(a).

statistical information about pupils with disabilities in mainstream education, since home schooling is categorised as “mainstream education” (as opposed to education in special schools).<sup>40</sup> In the Commissioner’s view, home schooling in such circumstances can amount to segregation of children with disabilities.

90. The Commissioner wishes to underline that the exclusion of children with disabilities from mainstream education further reinforces and legitimises their marginalisation in the later stages of their lives. However, the placement of students with disabilities in mainstream classes can only be successful if accompanied by structural changes. Such measures should be accompanied by a clear and ambitious timetable and an adequate budget. The transfer of children from special to mainstream education should be based on accurate statistical data concerning children with disabilities enrolled in special education or home schooling.
91. As regards the situation of Roma children, the European Commission Against Racism and Intolerance in its 2016 report on Lithuania recommended to “scale up the support for Roma education activities and aim at raising the level of enrolment of Roma children in pre-school education to that of the general population with a view of promoting non-segregated pre-school facilities”.<sup>41</sup> The Council of Europe Committee of Ministers in its Resolution CM/ResCMN(2016)9 on the implementation of the Framework Convention for the Protection of National Minorities by Lithuania recommended to “increase efforts to promote equal access to quality education for Roma in mainstream schools, including through the enhanced employment of Roma mediators”.<sup>42</sup> The UN Committee on the Elimination of Discrimination Against Women stressed the issue of placement of Roma children in special schools or classes, the low school attendance of Roma girls and the high rate at which Roma girls are dropping out of primary education.<sup>43</sup> The Commissioner is of the opinion that any strategy aimed at promoting inclusive education should include concrete measures to promote access to education also to other vulnerable groups, including Roma children.

## 2.5 VIOLENCE AGAINST CHILDREN

92. The UN Committee on the Rights of the Child in its Concluding observations on the combined third and fourth periodic reports of Lithuania<sup>44</sup> expressed its concern about “[...] the increase in cases of child abuse, particularly in families with parents who are unemployed, abuse alcohol or live in poverty, as well as children in care institutions”.<sup>45</sup> It was in particular concerned by “[...] the high level of tolerance of violent behaviour towards children in Lithuanian society and the lack of mechanisms for children, especially for those living in care institutions, to report cases of abuse and violence against them”.<sup>46</sup>
93. After women, children constitute the second largest group affected by domestic violence. Between 2012 and 2016, 6341 cases were recorded involving 6007 children who are likely to have suffered from such violence (1261 children in 2012, 1362 in 2013, 1192 in 2014, 1578 in 2015, and 611 in the first quarter of 2016). Out of the total number of 6341, 360 children had been subjected to sexual abuse, including 179 children who experienced such abuse by adults whom they did not know, 71 by minors they did not know, 82 by adults in their close circle, and 28 by persons under 18 in their close circle.

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<sup>40</sup> Ministry of Social Security and Labour (2015), *2015 Annual Activity Report of the Ministry of Social Security and Labour* available in Lithuanian at: <http://www.socmin.lt/lt/ataskaitos/ministerijos-veiklos-ataskaitos.html>. In *A comparative analysis of non-discrimination law in Europe in 2016*, prepared by Isabelle Chopin and Catharina Germaine for the European network of legal experts in gender equality and non-discrimination, December 2016, page 65 (accessed at <http://www.equalitylaw.eu/downloads/3987-a-comparative-analysis-of-non-discrimination-law-in-europe-2016-pdf-1-2-mb>).

<sup>41</sup> ECRI Report on Lithuania (fifth monitoring cycle), CRI(2016)20, adopted on 18 March 2016, paragraph 72.

<sup>42</sup> CM/ResCMN(2016)9, paragraph 2.

<sup>43</sup> CEDAW/C/LTU/CO/5, paragraph 33.

<sup>44</sup> Adopted on 4 October 2013.

<sup>45</sup> CRC/C/LTU/CO/3-4, paragraph 27.

<sup>46</sup> *Ibid.*

94. From 2012 to 2016, 2703 children suffered from physical violence. Of those, 446 children experienced violence inflicted by adults not known to them, 532 by minors whom they did not know, 1579 by adults in their close environment, and 108 by minors in their close environment. As for psychological violence, it affected 3278 children, including 283 subjected to it by adult strangers; 67 by underage strangers; 2883 by adults in their close environment, and 45 by underage persons in their close environment. Therefore, in the majority of cases, the persons inflicting physical and psychological violence against children were their own family members, i.e. one or both parents, guardians (foster parents), grandparents, brothers or sisters.<sup>47</sup>
95. During his meetings with officials, the Commissioner was informed that 441 minors in 2014 and 412 minors in 2015 became victims of domestic violence (in 52% of such cases, the victims were girls, and the remaining 48% of cases involved victims who were boys).
96. Several of the Commissioner's interlocutors underlined that the existing statistical data about children suffering from physical or psychological abuse in their family environment is incomplete. Children themselves are not always capable of recognising violence against them; they also lack information on where they could seek help, as well as how to safely report abuse by parents or other close relatives. There is a lack of national up-to-date surveys able to identify the real prevalence of violence and abuse against children, including sexual abuse.<sup>48</sup>
97. During his visit, the Commissioner was informed about public opinion surveys indicating that more than 50% of Lithuanian parents believe that corporal punishment may always or sometimes be used to discipline children. Those statistics clearly point to the need for concrete measures aimed at changing public attitudes and promoting positive parenting as part of any strategy for preventing and combating violence against children.
98. In 2015 the Parliament adopted legislative amendments to prohibit persons who have previously been convicted of sexual offences from working or providing volunteer services in the establishments, enterprises and organisations delivering social, educational, sport and health care services to children. One of the key priorities of the Strategic Action Plan for 2016-2018 of the Office of the Prosecutor General is strengthening of prosecution in criminal matters concerning sexual exploitation of children.
99. Children residing in closed institutions such as care homes or "socialisation centre's" are particularly vulnerable to violence. They also frequently become victims of trafficking in human beings. In its 2015 report, the Council of Europe Group of Experts on Action against Trafficking in Human Beings highlighted the need to implement targeted preventive measures for vulnerable groups, such as persons with intellectual or psycho-social disabilities, children in special schools and foster homes, and men in difficult life circumstances.<sup>49</sup> Furthermore, it urged the authorities to improve the identification of victims of trafficking in human beings among children by setting up a specific identification mechanism which takes into account the special circumstances and needs of child victims of trafficking in human beings, involves child specialists and ensures that the best interests of the child are the primary consideration.<sup>50</sup>
100. Another issue which is frequently raised in relation to violence against children is access to justice. In many cases, children are not allowed to effectively participate in the relevant legal proceedings: their opinions are often not taken into account and only the position of their legal representatives (guardians) or legal counsel, or the findings of the specialists of the Child Rights Protection Service are taken into account. Police, prosecutors and judges often do not have the requisite skills necessary for

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<sup>47</sup> Ministry of Social Affairs and Labour, The Social Report, 2012-2016, page 104-106 (accessed at <http://www.socmin.lt/en/social-report.html>).

<sup>48</sup> In 2008, Save the Children conducted a survey of more than 1000 children in Lithuania between 10 and 15 years of age about their family environment. The survey showed that almost 50% experienced physical punishment in the family environment, and 5% stated that they were constantly subject to physical punishment.

<sup>49</sup> Group of Experts on Action against Trafficking in Human Beings, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Lithuania, First evaluation round, adopted on 20 March 2015, GRETA(2015)12, paragraph 88.

<sup>50</sup> *Ibid*, paragraph 113.

interviewing children, particularly children with disabilities, and therefore are not able to collect important evidence. In particular, in cases related to domestic violence, the presence of a qualified psychologist is not always ensured during the interviews.

101. In 2014-2015 additional measures were introduced to better protect children witnesses and victims, such as attending court hearings only in exceptional cases, making audio or video recordings or statements, giving evidence using communication technologies without being present in the courtroom, not participating in more than one interview during criminal investigation, and other measures. The representatives of non-governmental organisations working with children have mentioned, however, that it still happens that the child can be “unofficially” interviewed several times before the “official” interview.

## 2.6 CONCLUSIONS AND RECOMMENDATIONS

102. While Lithuania has a relatively well-developed institutional and policy framework for the protection of children’s rights, there is a considerable gap between the stated policies and their implementation. The Commissioner urges the authorities to address this matter, and to ensure that all children are in a position to effectively enjoy all human rights. It is especially important to improve coordination between national and municipal authorities in charge of protection of children’s rights, to ensure sufficient staff and expertise to provide child-focused social services in all municipalities.
103. The Commissioner would like to highlight the Council of Europe recommendation on the rights of children living in residential institutions, which stresses that the placement of a child in them should remain the exception, and have as the primary objective the best interests of the child and his or her successful social integration or re-integration. He stresses that children in institutions are more vulnerable than others to various forms of violence and abuse. Authorities both at the national and at local levels are urged to speed up the deinstitutionalisation process by adopting more ambitious national strategies and policies and locally-tailored programmes to support them. As a first step, the authorities should devise strategies to prevent the placement of children in state care, by providing more support to families raising children and developing an effective system of community-based services. The Commissioner wishes to refer to the [UN Guidelines for alternative care of children](#) which provide useful guidance in this respect. The authorities should also prioritise other types of care in a family-type environment. Providing adequate support to parents of children with disabilities by ensuring continuous access to adequate community-based services should be one of the measures given priority.
104. The Commissioner welcomes the authorities’ commitment to end the practice of institutionalisation of orphans and children without parental care, especially those under the age of three. He would like to refer to the prevailing opinion among experts that alternative care for young children should be provided in family-based settings. He also calls on the authorities to allocate sufficient funds and conduct training in order to increase the number of guardians and foster families, as well as develop professional foster care. Pending the progressive shift away from placement in institutions towards care within the community, large residential care facilities should strive to ensure an environment and quality of care conducive to the child’s development, as provided for in the [UN Guidelines for alternative care of children](#).
105. The Commissioner encourages the Lithuanian authorities to create more training and study opportunities for child protection professionals in order to eliminate existing disparities and strengthen locally available support services which will meet the needs of the population. Cooperation between the local and central authorities should be further enhanced in order to ensure more uniform application of the existing policies to deliver child-friendly social services, in line with the Council of Europe Recommendation CM/Rec (2011)12 on children’s rights and social services friendly to children and families (2011).
106. The existing system of placement in socialisation centres should be reviewed and the deinstitutionalisation process should also apply to those institutions. Children experiencing



behavioural problems should not be placed in closed-type institutions, but instead sufficient support should be provided to their rehabilitation in their families or a family-like environment.

107. Institutionalisation of young persons in the context of preventing juvenile delinquency should be a measure of last resort and for the minimum necessary period, as stated in Article 46 of the UN Guidelines for the Prevention of Juvenile Delinquency. Behaviour such as school absenteeism, loitering or running away from home should be addressed with child protective measures, including effective support for parents or other caregivers and measures which address the root causes of such behaviour, as established in international standards.<sup>51</sup> The Commissioner wishes to recall that Article 3 of the Convention on the Rights of the Child states that the best interests of the child must be the primary consideration in all decisions of the authorities concerning him or her. According to the Committee on the Rights of the Child, this means that rehabilitation and restorative justice should be the overarching principles when dealing with child offenders.<sup>52</sup>
108. Children must be treated with dignity and respect at all times and must benefit from effective protection from abuse, neglect, and all forms of exploitation, whether on the part of care providers, peers or third parties, in whatever care setting they may find themselves, as stated in the [UN Guidelines for alternative care of children](#).
109. Lithuania has an obligation to ensure access to inclusive education for children with disabilities in accordance with Article 24 of the UN CRPD. The authorities should adopt inclusive education as a fundamental principle of all their educational policies. They must ensure that children with special education needs effectively benefit from individual support and reasonable accommodation in mainstream settings. The Commissioner encourages the authorities to revisit the financial arrangements within the educational system which may create strong vested interests at regional levels in maintaining a segregated education system, in violation of the requirements of the CRPD.
110. There is a need to make a clear break from old practices, related to widely-held and previously unchallenged beliefs that favour segregated schooling for children with disabilities. The Commissioner is of the opinion that, when implemented properly, inclusive education has benefits for the wider population. He therefore recommends that all policy measures in this area be accompanied by awareness-raising about the rights of persons with disabilities to inclusive education and the need to protect them from discrimination in the education system.
111. The authorities are urged to reinforce their efforts to collect disaggregated data and conduct research, with a view to developing more effective policies and interventions. Further guidance in this regard may be found in the [General Comment No 4 on meeting the obligations under CRPD Article 24](#).
112. The Commissioner welcomes the recent adoption of the law banning all forms of violence against children, including corporal punishment, in all settings. In order to prevent and address violence against children in a systematic and effective manner, the Commissioner calls on the authorities to adopt a coordinated strategy at national level, with the involvement of all actors including at local level, and to subsequently ensure effective and independent monitoring of the implementation of such a strategy. Mandatory reporting by all relevant professionals of incidents of alleged violence against children is a pre-requisite for creating a safer environment for children. The Commissioner wishes to draw attention to the [Council of Europe Policy Guidelines on Integrated National Strategies for the Protection of Children from Violence](#), which are a useful instrument for developing a holistic national framework for safeguarding the rights of the child, eliminating violence against them and promoting a culture of respect for the rights of the child. The promotion of positive and non-violent forms of child-rearing should form a basis for the planning and implementation of policies related to children and the family. The authorities are invited to consult the Council of Europe [Recommendation](#)

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<sup>51</sup> See the [United Nations Guidelines for the Prevention of Juvenile Delinquency \(the Riyadh Guidelines\)](#), paragraph 56 and the [Committee for the Rights of the Child's General Comment No. 10 \(2007\) on Children's Rights in Juvenile Justice](#), paragraph 4a.

<sup>52</sup> See also [Council of Europe Commissioner for Human Rights' Issue Paper, Children and Juvenile Justice: Proposals for Improvements](#), 19 June 2009.

Rec(2006)19 on policy to support positive parenting which could serve as a source of inspiration for such policies.

113. The authorities should continue their efforts to provide adequate and systematic training and/or awareness-raising about children's rights to professionals who work with and for children, most notably judges, lawyers, law enforcement officials, and other civil servants. Collecting testimony from children who may be victims, in particular those who have psycho-social and intellectual disabilities, poses particular challenges for law-enforcement officials because of the victims' difficulty to express their account of abuse. It is therefore important to ensure that justice is child-friendly and quality psychological services are made available for children, most notably in the framework of the domestic violence-related judicial proceedings.
114. All children coming into contact with the law should be treated according to the [Council of Europe Committee of Ministers Guidelines of 2010 on Child Friendly Justice](#). As stressed in these guidelines, a child-friendly justice system should be "accessible, age appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child". It should duly take into account the evolving capacities of the child.
115. The Commissioner wishes to highlight the importance of the role of the human rights institutions – the Parliamentary Ombudspersons, the Ombudsperson for Children's Rights and the Ombudsperson for Equal Opportunities - in protecting the rights of children, including by promoting public awareness of the need for inclusive education and in protecting children with disabilities from any form of discrimination.

## 3 RIGHTS OF PERSONS WITH DISABILITIES

### 3.1 IMPLEMENTATION OF THE CRPD

116. Lithuania ratified the UN Convention on the Rights of Persons with Disabilities on 18 August 2010. It also accepted the individual complaints' procedure under the Optional Protocol to the Convention. On 7 April 2016, the Committee on the Rights of Persons with Disabilities considered the initial report of Lithuania on its implementation of the provisions of the above-mentioned Convention. In the framework of the discussions, concerns were expressed that there was no clear and comprehensive strategy in place that would reflect the Convention's shift from a medical to a human rights-based approach to disability.<sup>53</sup>
117. The principle of equality and non-discrimination is enshrined in Article 29 of Lithuania's Constitution, although it does not specifically single out disability as a ground for discrimination. The Law on Equal Treatment lists disability as a prohibited ground of discrimination. This Law also requires from the employer to ensure reasonable accommodation to enable the persons with disabilities to have access to, participate in, or advance in employment, or to undergo training, unless such measures would impose a disproportionate burden on the employer. The Law on the Social Integration of Persons with Disabilities imposes broad duties on public authorities to promote accessibility in a wide range of fields (goods and services, transport, housing, education, etc.), though it does not clearly specify how the duties ought to be implemented, and also lacks a monitoring mechanism.
118. Following the ratification of the CRPD, the National Programme for the Social Integration of Persons with Disabilities for 2013-2019 was adopted. It focuses mainly on the social integration of persons with disabilities and covers areas such as public education, health care, medical, vocational and psycho-social rehabilitation, social services, employment, culture, sport, recreation and family life. The Guidelines for Deinstitutionalisation of the Social Care Homes for Children with Disabilities, Children Deprived of Parental Care and Adults with Disabilities were approved in November 2012<sup>54</sup> and the Action Plan on Transition from Institutional Care to Family and Community-Based Services for People with Disabilities and Children Deprived of Parental Care for 2014-2020 was approved in February 2014.
119. According to Resolution No. 1739 of the Government of the Republic of Lithuania on the Implementation of the United Nations Convention on the Rights of Persons with Disabilities and the Optional Protocol, the Ministry of Social Security and Labour has been appointed as a government authority responsible for the co-ordination of the implementation of the Convention. Other state institutions involved in this process include the Ministry of Education and Science, the Ministry of Healthcare, the Ministry of Culture; various state agencies under the Ministry of Social Security and Labour, non-governmental organisations and municipalities. On 23 March 2015, a memorandum of co-operation was signed by the key Ministries, Association of the Municipalities and the Chairman of the Council of Nongovernmental Organisations. Several of the Commissioner's interlocutors have pointed out, however, that the lack of co-operation between the key governmental entities, together with the lack of appropriate funding were the key reasons for the slow process of deinstitutionalisation reforms.
120. The Law on Equal Treatment empowers the Equal Opportunities Ombudsman to supervise the implementation of the Law and to investigate complaints related to perceived violations of the principle of equal treatment. The Office of the Equal Opportunities Ombudsperson also has the function of an independent monitoring mechanism of the implementation of the Convention; however, several of the Commissioner's interlocutors expressed an opinion that it does not have sufficient resources to carry out that function in an effective manner. Specifically, the Equal

<sup>53</sup> See Committee on the Rights of Persons with Disabilities considers report of Lithuania, Geneva, 7 April 2016 (accessed at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19792&LangID=E#sthash.LFF1m8Kg.dpuf>).

<sup>54</sup> The Guidelines envisage the transition from institutional social care to community-based services to persons with disabilities, children and their families until 2030.

Opportunities Ombudsperson has been charged with investigating complaints regarding discrimination on the basis of disability, investigating cases of administrative offences, and imposing administrative penalties for violations of the law.

121. The Council for the Affairs of Persons with Disabilities<sup>55</sup> under the Ministry of Social Security and Labour has also been assigned the function of independent mechanism to supervise the implementation of the Convention; however, as mentioned in the Concluding observations on the initial report of Lithuania by the Committee on the Rights of Persons with Disabilities, it cannot be considered as independent, since it falls under the mandate of the Ministry of Social Security and Labour.<sup>56</sup>
122. In 2013, Lithuania ratified the Optional Protocol to the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Following this ratification, the Parliamentary Ombudsperson's Office was designated as a national preventive mechanism as regards places of deprivation of liberty, including institutions for persons with disabilities.

### 3.2 PERSONS IN INSTITUTIONAL CARE

123. Article 19 of the CRPD stipulates that all persons with disabilities have the right to "live in the community, with choices equal to others", requiring States to enable people with disabilities to be fully included and participate in society. This necessitates a clear-cut and unambiguous understanding of what the right to live in the community means, since an incorrect understanding of the right to live in the community may result in replacing one type of exclusion with another. Furthermore, this usually requires a targeted social policy reform, which has budgetary implications, involves multiple stakeholders and necessitates co-ordination across government ministries and local authorities. Living in the community is not solely about physical placement of a person in the community, but about giving the person a possibility to lead life with autonomy and choice.<sup>57</sup>
124. There are about 250,000 persons with disabilities in Lithuania, representing approximately 8% of the population. The Action Plan on Transition from Institutional Care to Family and Community-Based Services for persons with Disabilities and Children Deprived of Parental Care for 2014-2020 (deinstitutionalisation, or De-I Action Plan) was launched in 2014. The purpose of deinstitutionalisation is to establish a consistent and coordinated system of assistance and services enabling persons and children with disabilities, as well as children deprived of parental care, to receive individual services and the necessary assistance tailored to their needs, become involved in community life and participate in it without experiencing social exclusion. The reorganisation of the institutional care system is coordinated by the Ministry of Social Affairs and Labour.
125. The preparatory stage of the reorganisation of institutional care is envisaged from 2015 to 2017 and is financed with EUR 7 million from EU Structural Funds. It covers assessment of the individual needs of the residents in selected care institutions, the development of professional competence of employees providing and administering social services to target groups, as well as the promotion of adoption and provision of care to children deprived of parental care. In the period from 2017 to 2020 it is envisaged to develop the regional infrastructure of services and provide new forms of services to target groups.

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<sup>55</sup> The Council for the Affairs of Persons with Disabilities is a body which includes representatives of governmental institutions and NGOs representing persons with disabilities. Council members who represent associations of persons with disabilities are delegated by the Lithuanian Association of the Blind and Visually Impaired, the Lithuanian Deaf Society, the Lithuanian Society of Persons with Disabilities, the Lithuanian Association of People with Disabilities, the Lithuanian welfare society for persons with mental disabilities VILTIS, the Lithuanian Welfare Society for Persons with Mental Disorders, and the Lithuanian Paralympic Committee. The Ministries of Social Affairs and Labour, Health, Education, Environment, Transport, the Interior and the Economy each delegate a representative to the Council. The Council's mandate is to examine major issues of social integration of persons with disabilities, and to assist the Minister of Social Security and Labour, as well as other Ministers, to implement social integration policy.

<sup>56</sup> CRPD/C/LTU/CO/1, paragraphs 67(b) and 68(b).

<sup>57</sup> For more information, see Issue Paper "[The right of people with disabilities to live independently and be included in the community](#)", by Nils Muižnieks, Council of Europe Commissioner for Human Rights, June 2012.

A total of EUR 77.4 million (including EUR 64.09 million from EU Structural Funds) will be allocated for the whole reorganisation process.<sup>58</sup>

126. According to information provided by the Ministry of Social Affairs and Labour, there are currently 23 social care homes for adults with disabilities in Lithuania with a combined total of 4920 residents. There are also four care homes for children and youth with disabilities with a total number of 632 residents. The De-I Plan envisages the reorganisation of 26 care institutions in all 10 Lithuanian regions (counties) by 2020. The planned reorganisation will cover 16 (out of 95) child care institutions operating in Lithuania and all existing infant care homes (for more information see paragraph 60 above).
127. Several of the Commissioner's interlocutors indicated that no particular progress has been achieved in relation to the deinstitutionalisation process for adults with disabilities. While certain planned benchmarks are quite ambitious, they are not necessarily supported by concrete measures to develop community-based services and to ensure the right to independent living. There is also a need to promote a wider change of mentality among the authorities, institutions, and the public at large. Strong vested interests to maintain the current institutional care system may still exist at the municipal level, as well as within the medical and other relevant professions. In their discussions with the Commissioner, the national authorities confirmed their commitment to the deinstitutionalisation process and towards developing the necessary community-based services. However, it would appear that the de-institutionalisation process has thus far mainly been directed at a transition away from institutional care for children (see paragraphs 60 and 126 above). While the Commissioner is fully aware that phasing out institutional options and replacing them with community-based services is always a gradual process, he nevertheless wishes to reiterate the importance of adhering to measurable targets, clear timetables and strategies to ensure independent monitoring of the process, as well as on-going involvement of the persons with disabilities and organisations representing them.
128. In 2013, the Integral Assistance Development Programme was launched aimed at providing quality integral assistance (nursing and social services) for persons with disabilities and elderly people. From 2013 to 2015, pilot projects were implemented under this programme in 21 municipalities, with mobile teams were set up to provide nursing and social services at home and to offer consultations to family members. The Action Plan for the Modernisation and Development of Infrastructure of Social Services Institutions for 2016-2020 envisages the development of infrastructure of social services for groups such as persons with disabilities, older persons, and people at social risk and their families.<sup>59</sup> In addition, a process of licensing of social care institutions began in 2013. As of 1 January 2015, only those social care providers who have licences for the provision of social care are entitled to render such services. As of 1 May 2016, 419 social care institutions received 654 valid licences. Of all licences issued, 42% entitle their holders to provide institutional social care (both long-term and short-term) for adults with disabilities and elderly people.<sup>60</sup>
129. An issue which was raised during the Commissioner's discussions with various interlocutors was that EU structural funds are reportedly used for the renovation of institutional care facilities, instead of being entirely directed towards developing community-based services, providing families with support services and integrating people with disabilities into the community. The Committee on the Rights of Persons with Disabilities in its Concluding observations on the initial report of Lithuania recommended that "[...] the State party [should] regularly evaluate the national budget and its use of the European Union structural and investment funds to ensure that the maximum available resources are being used for the realisation of the rights of persons with disabilities in accordance with article 4(2) of the Convention".<sup>61</sup>

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<sup>58</sup> Ministry of Social Affairs and Labour, The Social Report, 2012-2016, pages 100-101 (accessed at <http://www.socmin.lt/en/social-report.html>).

<sup>59</sup> Ministry of Social Affairs and Labour, The Social Report, 2012-2016, pages 74-75 (accessed at <http://www.socmin.lt/en/social-report.html>).

<sup>60</sup> *Ibid*, page 78.

<sup>61</sup> CRPD/C/LTU/CO/1, paragraph 10.

130. As regards the conditions in the social care institutions which are still in use, in 2015, the Seimas Ombudspersons issued numerous recommendations to social care institutions and social care facilities for children. The Ombudspersons identified the lack of a humane attitude towards residents of social care institutions as a major issue. Furthermore, they highlighted that the safety of residents was not always properly ensured in social care institutional settings.<sup>62</sup>
131. In 2014, after the Seimas Ombudspersons' Office was assigned the function of national preventive mechanism under the UN OPCAT, an inspection of the psychiatric clinic of the Šiauliai hospital was carried out, which resulted in a report. It was noted, for instance, that patients in the clinic were not given information about the treatment administered to them or its effectiveness. They were also denied information on the prescribed medicines and were not informed that they could refuse medical interventions. Involuntarily hospitalised patients were unable to appeal against court decisions to extend their hospitalisation and frequently were not even informed about the court hearings.<sup>63</sup> The patients were not guaranteed access to their medical records, and there was no separate room for the meetings between patients and their relatives. There were also limitations imposed on walking outside the premises.<sup>64</sup> During a repeat visit to this hospital at the end of 2016, the Ombudspersons found that the majority of their recommendations had been implemented.<sup>65</sup>

### 3.3 MENTAL HEALTH POLICY

132. In 2007, the Parliament adopted a National Mental Health Strategy, based on the 2005 World Health Organisation's Mental Health Declaration for Europe. Its proclaimed features include: a special focus on human rights of persons with mental disabilities; modern services which meet the needs of the patients; a balance within a development of a bio-psycho-social model; support of the principles of autonomy and participation; common mental health disorders should be managed by primary and other non-specialist care sectors; mental health promotion and prevention of mental disorders should be integrated in the implementation of general health, education and social welfare policies; and strengthening the role of patients and the non-governmental sector.<sup>66</sup> However, the lack of implementation of the strategy has led to a situation where institutional care remains a dominant model and significant funding continues to be allocated for providing care to persons with mental health problems in large institutions and for providing medication to such patients.
133. In 2015, a group of Lithuanian mental health experts and non-governmental organisations working in the field of human rights prepared an alternative Action Plan and urged the authorities to implement essential mental health policy reforms in Lithuania.<sup>67</sup>
134. The Law on Mental Health Care provides for medical assistance to persons who have psycho-social or intellectual disabilities. However, it lacks a social approach to mental health care and does not provide for community-based services. The law provides that a person may be involuntarily hospitalised and undergo involuntary psychiatric treatment, without a court's permission, for a period of up to two days. Within this period the administration of the psychiatric facility must refer to the justice system. The court, having considered the recommendations of psychiatrists, has the right to decide on the extension of patient's forced hospitalisation and involuntary treatment for a maximum of one month from the first day of involuntary hospitalisation. In cases where the court does not grant the extension within two days, involuntary hospitalisation and treatment have to be discontinued.<sup>68</sup> The Law also

<sup>62</sup> [The Seimas Ombudsmen issued a record number of recommendations](#), press-release of 9 May 2016.

<sup>63</sup> Similar concerns have been highlighted by the UN CAT and the CoE CPT (see paragraphs... of the report).

<sup>64</sup> [The Seimas Ombudsman expresses concern regarding human rights violations in the psychiatric clinic of Šiauliai hospital](#) press-release of 9 September 2014.

<sup>65</sup> [During his visits to psychiatric institutions, the Seimas Ombudsman was pleasantly surprised by their progress towards eliminating human rights violations](#), press-release of 28 December 2016.

<sup>66</sup> See Mental Health Briefing Sheets; Facts and Activities in Member States: Lithuania (accessed at [http://ec.europa.eu/health/archive/ph\\_determinants/life\\_style/mental/docs/lithuania.pdf](http://ec.europa.eu/health/archive/ph_determinants/life_style/mental/docs/lithuania.pdf)).

<sup>67</sup> Aida Kišūnaitė, Dainius Pūras, Towards a holistic approach to children's rights in Lithuanian mental health policy: a case study. Archives of Psychiatry and Psychotherapy, 2016, 2:40-47.

<sup>68</sup> Article 28 of the Law on Mental Health Care.

provides for the establishment of the Municipal Mental Health Commissions - specialised commissions set up by the municipality – to address issues such as involuntary hospitalisation, involuntary treatment, and disputes arising between the patient, his representative and medical personnel in connection to health care and related issues.<sup>69</sup>

135. The Commissioner notes that according to the jurisprudence of the European Court of Human Rights involuntary placement and treatment should only be used as a means of last resort. In *Plesó v Hungary*, the Court stressed the imperative need, when taking decisions regarding involuntary treatment, “to strike a fair balance between the competing interests, emanating, on the one hand, from society’s responsibility to secure the best possible health care for those with diminished faculties (for example, because of lack of insight into their condition) and, on the other hand, from the individual’s inalienable right to self-determination (including the right to refusal of hospitalisation or medical treatment, that is, his or her “right to be ill”)”.<sup>70</sup>
136. Both the UN Committee against Torture and the Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on various occasions have expressed their concern about the absence of legal safeguards concerning the involuntary hospitalisation and involuntary medical treatment of persons with mental and psycho-social disabilities in psychiatric institutions.<sup>71</sup>
137. The Commissioner’s position is that even when there are such safeguards, a legal framework concerning involuntary placement and treatment which does not address the inherently discriminatory nature of legal systems vis-à-vis persons with psycho-social disabilities often devolve into procedures where judges only take account of psychiatrists’ opinions. Modern approaches to mental health must shift the focus on how coercion can be avoided in the first place and how persons with psycho-social disabilities can best be supported in making healthcare choices.
138. In its General Comment on Article 12 of the Convention, the CRPD Committee highlights as an on-going problem the denial of legal capacity to persons with disabilities and their detention in institutions against their will, either without their consent or with the consent of a substitute decision-maker. It considers that such a practice constitutes arbitrary deprivation of liberty and violates Article 12 and 14 of the Convention, the latter of which notably states that “the existence of a disability shall in no case justify a deprivation of liberty”.
139. In addition, the CRPD upholds the right of persons with disabilities to enjoy the highest attainable standard of health, without discrimination on ground of disability, and that the provision of care should be based on free and informed consent (Article 25). In this regard, the CRPD Committee has stated in 2014 that States parties are therefore obliged to require all health and medical professionals, including psychiatric professionals, to obtain free and informed consent from persons with disabilities prior to any treatment and to refrain from permitting substituted decision-makers, including guardians, to provide consent on their behalf.<sup>72</sup>
140. In its Concluding observations on the initial report of Lithuania, the CRPD Committee expressed concern at the lack of statistical data on the non-consensual treatment of persons with psycho-social disabilities, including when a guardian or family member consented to the treatment. It also recommended repealing laws permitting deprivation of liberty based on impairment, forced treatment and the use of restraints and seclusion, and the enactment of new legislation prohibiting those practices, with the involvement of organisations representing persons with psycho-social disabilities.<sup>73</sup>

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<sup>69</sup> Republic of Lithuania Law on Mental Health Care (accessed at [http://www.vpsc.lt/vpsc\\_anglu/Law%20on%20Mental%20Health%20care.htm](http://www.vpsc.lt/vpsc_anglu/Law%20on%20Mental%20Health%20care.htm)).

<sup>70</sup> Judgment of 2 October 2012, paragraph 66.

<sup>71</sup> See CAT/C/LTU/CO/3, paragraph 23; CRPD/C/LTU/CO/1, para 32; CPT/Inf(2014)18, paragraph 98.

<sup>72</sup> UN Committee on the Rights of Persons with Disabilities, General Comment No 1, Article 12: Equal Recognition before the Law, 11 April 2014.

<sup>73</sup> CRPD/C/LTU/CO/1, paragraphs 30 and 31.

141. Lithuania has the fifth highest suicide rate globally at 28.2 per 100,000,<sup>74</sup> including among young people. Bullying at schools is yet another worrying problem. The infrastructure of mental health for children and youth remains fragmented, with insufficient human and financial resources, and the treatment continues to rely mostly on pharmacotherapy. In 2015, the Suicide Prevention Centre, a subdivision of the State Mental Health Centre, became operational. In 2016, the Vilnius City Council adopted the 2016-2019 Suicide Prevention Strategy for Vilnius and a corresponding Action Plan for 2016, and allocated funding for its implementation from the municipality budget.<sup>75</sup> However, there appears to be no comprehensive nationwide strategy for preventing suicide among young people and providing psychological services for those belonging to risk groups.

### 3.4 LEGAL CAPACITY

142. The guarantees enshrined in the CRPD focus upon the self-determination, legal capacity and effective equality of people with disabilities, including people with psycho-social and intellectual disabilities. Article 12 of the CRPD guarantees the right to equal recognition before the law for persons with disabilities and, in particular, the right to enjoy legal capacity on an equal basis with others in all aspects of life. In this respect, the Commissioner is concerned at the limited development of supported decision-making alternatives in Lithuania to help - based on individual consent – people with psycho-social and intellectual disabilities to exercise their legal capacity, in line with the aforementioned provision of the CRPD. Lithuania's obligations under Article 12 of the CRPD require the development of supported decision-making alternatives and - ultimately – the abolition of substituted decision-making regimes.
143. The Commissioner notes the case-law of the European Court of Human Rights establishing that the non-recognition of a person's legal capacity severely limits their human rights and that full deprivation of legal capacity is a very serious interference with the right to private life protected by Article 8 of the Convention. In 2012, the European Court of Human Rights rendered its judgment in the case of *D.D. v Lithuania*.<sup>76</sup> The case concerned a Lithuanian national suffering from schizophrenia who was deprived of her legal capacity in 2000.<sup>77</sup> The Court stressed that according to the Convention, the applicant had the right for judicial review of her involuntary institutionalisation; however, in practical terms, a person who was deprived of legal capacity had no effective possibility to apply to the court. Furthermore, the Lithuanian laws did not provide for periodic review by national courts of the lawfulness of such involuntary institutionalisation. Therefore, the Court ruled that such legal regulation was in breach of the applicant's rights under Article 5 of the European Convention on Human Rights guaranteeing the right to everyone deprived of his/her liberty to take proceedings by which the lawfulness of the detention must be decided speedily by a court.<sup>78</sup> As regards Article 6, the Court concluded that the proceedings before the national court where the applicant's request for reopening of her guardianship proceedings was examined were not fair. Though D.D. was present at the court hearing, she was represented by her guardian's lawyer. The Court stressed that due to the contrary interests of D.D. and her guardian, the guardian's lawyer could not be considered to fairly represent D.D.'s interests. The principle of fair trial requires D.D. to have an independent legal representative.<sup>79</sup> The Court also drew attention to the fact that the applicant was not granted the

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<sup>74</sup>World Health Organisation/Europe, Data and statistics, accessed at <http://www.euro.who.int/en/health-topics/noncommunicable-diseases/mental-health/data-and-statistics>.

<sup>75</sup> National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, Lithuania; A/HRC/WG.6/26/LTU/1, paragraph 48.

<sup>76</sup> Judgment of 14 February 2012.

<sup>77</sup> Her adoptive father was subsequently appointed as her legal guardian and, at his request, she was interned in June 2004. She was then placed in the Kėdainiai care home. The applicant complained about being admitted to the Kėdainiai care home without her consent and without possibility of judicial review. She also complained that the proceedings she had brought in 2005 to reopen the proceedings concerning her guardianship as well as to have her legal guardian changed were unfair. The Court found no violation of Article 5§1 of the ECHR as regards the lawfulness of the applicant's involuntary placement in the Kėdainiai care home, but a violation of Article 5 §4 as regards the applicant's inability to obtain her release from the Kėdainiai care home and a violation of Article 6§1 on account of the unfairness of the guardianship proceedings.

<sup>78</sup>*Ibid*, §§163, 165-166.

<sup>79</sup> *Ibid*, §§124, 127.



opportunity to participate in court proceedings regarding her legal capacity and was not informed about the consideration of the case related to her autonomy and involuntary placement into institutional care. She also did not attend the hearing on the appointment of her legal guardian.

144. In March 2015, amendments were introduced to the Civil Code and Civil Procedure Code in relation to legal capacity, with the aim of bringing the legislation more closely in line with the CRPD. The new legal amendments fundamentally modified the law in relation to limited capacity and provided for two new possibilities – supported decision-making and advance directives (living wills). The amendments also provided for a regular review of the status of person’s “incapacity”. A number of legal safeguards were introduced to protect persons with disabilities from possible abuse, and secure their rights. However, while the amendments abolished the possibility to declare a person “incapable” in all aspects of life by a court decision, it is still possible to declare a person “incapable in a particular area” and the transfer of full decision-making authority is still possible if limited to the “particular area”. Moreover, it is not explicitly forbidden to declare a person” legally incapable in all areas of life”.
145. In its Concluding observations, the CRPD Committee expressed deep concern “at the legal provisions permitting the denial or restriction of the legal capacity of persons with disabilities contrary to article 12 of the Convention, which thereby limit rights of persons with disabilities to give their free and informed consent for treatment, to marry, to found a family and to adopt and raise children”.<sup>80</sup> It has therefore recommended to “[...] repeal laws, policies and practices permitting guardianship and trusteeship for adults with disabilities and replace regimes of substituted decision-making with regimes of supported decision-making”.<sup>81</sup>
146. As of 1 January 2016, the revised framework for legal capacity entered into force. The Commissioner was informed by representatives of non-governmental organisations working with persons with disabilities that, even after the entry in force of the new provisions, there were more than 60 new cases of persons declared by the courts as “incapable” in all areas, while in approximately 25 new cases the persons concerned were declared as “incapable” in specific areas of life. There had been no contracts of supported decision making.
147. The Commissioner was also informed that more than 6700 cases of persons deprived of legal capacity in the past should now be reviewed in accordance with the new legislative provisions.
148. While the Commissioner commends the authorities for ratifying the CRPD and their ongoing efforts to ensure its implementation both in law and in practice, he would like to point out that the implementation of the Convention so far falls short of some of its key objectives in promoting the self-determination, autonomy, legal capacity and effective equality of people with psycho-social and intellectual disabilities. He therefore urges the government to adopt a more pro-active stance in implementing its obligations under the CRPD in close cooperation with people with disabilities and organisations representing them.

### 3.5 ACCESS TO HOUSING, HEALTH, EMPLOYMENT AND THE RIGHT TO VOTE

149. People with disabilities face discrimination in many areas of life, most notably due to persisting social stigma against them, especially persons with intellectual and psycho-social disabilities. Studies carried out in the past revealed that the majority of the population had been supportive of the arrangement whereby persons with intellectual and psycho-social disabilities live in specialised institutions isolated from the public, rather than being able to live independently and choose the place where they live.<sup>82</sup>

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<sup>80</sup> CRPD/C/LTU/CO/1, paragraph 25.

<sup>81</sup> Ibid, paragraph 26.

<sup>82</sup> Equal Opportunities Ombudsman’s Office, “Study of the opinion of the Lithuanian public on the discrimination of various social groups”, October 2013.

150. A recent public opinion poll – carried out from 19 to 26 October 2016 - on the prevailing attitudes in society towards certain human rights issues<sup>83</sup> indicated that persons with mental disabilities are the most discriminated social group followed by older persons and persons with physical disabilities.<sup>84</sup> The officials with whom the Commissioner met during the visit confirmed that they were aware of the persisting stigma against persons with disabilities and pointed out that one of the objectives of the De-I Action Plan was to promote positive changes in the public perception of persons with disabilities and a positive attitude towards the on-going deinstitutionalisation process.
151. Accessibility of mainstream facilities and services, such as housing, healthcare, transport and information remains among the most important barriers for the successful integration of persons with disabilities in society. Accessibility, as defined in Article 9 of the CRPD, is a precondition for persons with disabilities to be able to enjoy human rights actively, participate and contribute fully and equally in society, be independent and make choices about all aspects of their lives.
152. As highlighted in the [the Council of Europe Disability Strategy 2017-2023](#), accessibility should not be solely viewed as accessibility to the built environment, but as a much wider concept. It extends also to accessibility of products and services, including the channels in which services are delivered.<sup>85</sup>
153. According to the information provided by the Lithuanian Disability Forum, around 50% of public buildings (or roughly 34,000), including healthcare and educational institutions, are not accessible for persons with reduced mobility. From 2007 to 2011, 3115 persons filed a request with the public authorities for the adjustment of their houses to the needs of disabled persons; however, only 45% of such requests were satisfied. The Law on Social Integration of Persons with Disabilities and related regulations require ensuring the accessibility of the physical environment for persons with disabilities, and adjusting existing buildings to such needs. The expenses related to housing adjustments are jointly covered from the state and municipal budgets. According to official statistics, 251 housing units were adapted for the needs of persons with disabilities in 2012, 224 more in 2013, 236 in 2014, 310 in 2015, and 360 housing units were planned for such adjustments in 2016.<sup>86</sup>
154. The Commissioner was informed that persons with disabilities face particular difficulties when trying to obtain mainstream health care services and facilities due to inadequate accessibility. Apart from the physical barriers, there is also a lack of information, training or availability of treatment equipment and health-care professionals trained in the human rights model of disability. Lack of accessible equipment suitable for use by all persons with disabilities is in particular observed in connection to sexual and reproductive health care services. Persons with disabilities often cannot receive reimbursement or compensation for expenditures caused by disability when receiving treatment within the mainstream healthcare system.
155. Lithuania has yet to prioritise and promote the employment of persons with disabilities in the open labour market. The concept of “working incapacity” continues to be applied, and there is a low employment rate among persons with disabilities.
156. Lithuanian legislation prohibits people with disabilities who have been deprived of their legal capacity from voting or standing for election. Persons with reduced mobility frequently do not take part in voting, since polling stations are non-accessible. The government has been drafting legislation aimed at introducing e-voting.

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<sup>83</sup> The opinion poll was commissioned by the Vilnius-based Human Rights Monitoring Institute and carried out by Spinter tyrimai”, a market research company. It aimed at determining the public’s knowledge about human rights and ways to defend them, as well as the extent of confidence in the mechanisms for protection of these rights. Respondents were, inter alia, asked to express their views about which social group was discriminated the most in Lithuania. More information at [http://hrmi.lt/wp-content/uploads/2016/12/Apklausa-2016\\_santrauka.pdf](http://hrmi.lt/wp-content/uploads/2016/12/Apklausa-2016_santrauka.pdf).

<sup>84</sup> *Ibid.*

<sup>85</sup> Paragraph 56.

<sup>86</sup> Ministry of Social Affairs and Labour, The Social Report, 2012-2016, page 84 (accessed at <http://www.socmin.lt/en/social-report.html>).

157. In 2016, the Equal Opportunities Ombudsperson's Office received 260 complaints, 51 of which related to discrimination on grounds of disability, and undertook 68 investigations at the initiative of the Ombudsperson, including four related to discrimination on grounds of disability. Of the investigations undertaken on the basis of complaints or ex officio, 23 were in connection with non-accessibility of buildings and lack of access to certain services (such as health clinics, courts, urban infrastructure, etc).

### 3.6 CONCLUSIONS AND RECOMMENDATIONS

158. The Commissioner welcomes the ratification by Lithuania of the CRPD and the commitment expressed by the authorities to move away from the practice of placing individuals in institutions. However, he regrets that the reforms are proceeding at a very slow pace and, while there have been some positive developments with regard to deinstitutionalisation of children, this has not yet been the case as regards adults with disabilities. The Lithuanian authorities are strongly urged to bring a renewed impetus to the deinstitutionalisation process, with the active involvement of persons with disabilities and their representative organisations. Abstaining from any new placement of persons with disabilities in the institutional settings would be an important step in this direction.
159. The Commissioner wishes to reiterate that isolating persons with disabilities in institutions perpetuates their stigmatisation and marginalisation, in violation of their right to live independently in the community, as prescribed by Article 19 UN CRPD. He calls on the Lithuanian authorities to invest resources into the development of individualised support services rather than upgrading and maintaining the existing institutions. Any measures taken by the government should focus on meeting the preferences and will of persons with disabilities. The Commissioner also wishes to recall the [Council of Europe Committee of Ministers Recommendation CM/Rec\(2010\)2 on deinstitutionalization and community living of children with disabilities](#). The authorities are urged to pay particular attention to the especially vulnerable situation of children in institutions.
160. The transformation of traditional residential institutions into smaller housing units reflects a misunderstanding of the concept of living in the community, and results in practice in a transition from larger to smaller institutions. The Lithuanian authorities should avoid opening new – even if smaller – institutions altogether.<sup>87</sup> The Commissioner would like to refer to the views expressed in 2012 by the UN Office of the High Commissioner for Human Rights, according to which “[s]maller institutions are no less objectionable than larger ones, particularly where the structural opportunities for real engagement in community life are absent.”<sup>88</sup> Instead, all efforts should be directed towards providing persons with disabilities with an effective access to a range of community-based arrangements, including the personal assistance necessary to support independent living and inclusion in the community.
161. The authorities should adopt legislation providing clear guarantees for the respect of the right to independent living. They should take measures to offset short-term economic considerations which may create resistance to deinstitutionalisation and continue to address prejudices against persons with disabilities through education and awareness-raising.
162. The Commissioner welcomes the on-going efforts by the government to change the existing regime of legal capacity which affects persons with psycho-social and intellectual disabilities, with a view to bringing the relevant provisions in line with Article 12 of the UN CRPD. He calls on the Lithuanian authorities to finalise this process by repealing any laws, policies and practices permitting guardianship and trusteeship for adults with disabilities and to develop a flexible system of supported decision-making, based on individual consent. In respect of supported decision-making, safeguards must be put in place to ensure that the support provided respects the preferences of the persons receiving it, is

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<sup>87</sup> See the [Issue Paper](#) published by the Commissioner's Office on the right of people with disabilities to live independently and be included in the community, 2012.

<sup>88</sup> See OHCHR Regional Bureau for Europe, *Getting a Life: Living independently and Being Included in the Community*, April 2012.

free of conflict of interest and is subject to judicial review.<sup>89</sup> The Commissioner invites the authorities to use the guidance provided in General Comment No. 1 of the UN Committee on the Rights of Persons with Disabilities.<sup>90</sup>

163. While the guardianship system remains in place, the Lithuanian authorities should ensure that this does not amount to a full deprivation of legal capacity, and that persons placed under guardianship have effective access to judicial review proceedings to challenge the guardianship or the way in which it is administered. They should always be recognised as persons with equal standing in courts and tribunals and empowered to effectively challenge any interference with their right to legal capacity.<sup>91</sup>
164. The Commissioner urges the authorities to embark on an ambitious programme of reform in the mental health care system, with the involvement of organisations representing persons with psycho-social disabilities in accordance with the CRPD, and aimed at drastically reducing and progressively eliminating coercive practices in psychiatry. Placement in closed settings – including social care homes – without the explicit consent of the individual concerned should be based on objective and non-discriminatory criteria which are not specifically aimed at people with psycho-social disabilities. Where it occurs, it should always be considered a deprivation of liberty and subjected to safeguards, notably those established under Article 5 of the European Convention on Human Rights. “Voluntary” placement of persons in closed wards and care home against their will but with the consent of their guardians or legal representatives should be abolished both in law and in practice.
165. The Commissioner recalls the [Council of Europe Committee of Ministers Recommendation CM/Rec\(2011\)14 on the participation of persons with disabilities in political and public life](#) and urges the Lithuanian authorities to take all the necessary measures to ensure that persons with disabilities, including with intellectual or psycho-social disabilities, are not deprived of their right to vote and to be elected by any law limiting their legal capacity, by any judicial or other decision or by any other measure based on their disability, cognitive functioning or perceived capacity.
166. The Commissioner urges the authorities to take resolute measures in order to eliminate segregated work environments and develop and implement efficient strategies and programmes aimed at increasing the opportunities for persons with disabilities to find employment in the open labour market. They should also enhance their efforts to ensure universal access to quality health care for persons with disabilities. Sufficient human and financial resources should be allocated to ensure accessibility of housing, transport and public facilities for persons with disabilities, both in urban and rural areas. Particular attention should be given to promoting, ensuring and monitoring the provision of reasonable accommodation for persons with disabilities, both in the public and private sectors.
167. The Lithuanian authorities are invited to draw inspiration from [the Council of Europe Disability Strategy 2017-2023](#) in defining concrete actions aimed at enhancing the independence, freedom of choice and quality of life of persons with disabilities.

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<sup>89</sup> For further guidance see the Commissioner’s [Issue Paper](#) “Who gets to decide? Right to legal capacity for persons with intellectual and psycho-social disabilities”, 2012.

<sup>90</sup> UN Committee on the Rights of Persons with Disabilities, General Comment No 1, Article 12: Equal Recognition before the Law, 11 April 2014.

<sup>91</sup> See *Stanev v Bulgaria* (judgment of 17 January 2012).