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**ADVISORY COMMITTEE ON THE FRAMEWORK CONVENTION
FOR THE PROTECTION OF NATIONAL MINORITIES**

**COMMENTS OF THE GOVERNMENT OF LITHUANIA ON THE OPINION OF
THE ADVISORY COMMITTEE ON THE IMPLEMENTATION OF THE
FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL
MINORITIES IN LITHUANIA**

Lithuania commends the Advisory Committee for its work in examining the Initial Report of Lithuania, submitted on 31 October 2001, and appreciates constructive dialogue between Lithuanian authorities and the Advisory Committee during its visit to Lithuania on 25-28 November 2002. Lithuania welcomes the Committee's assessment of its efforts aimed at protecting and promoting rights of national minorities.

Lithuania continues to take practical steps for improving the legal framework of protection of national minorities and its implementation. Special efforts are made to ensure that new legal acts or their implementation do not narrow the scope of rights and freedoms, already enjoyed by the persons, belonging to national minorities.

The Government of Lithuania aims at social cohesion of all national minorities living in Lithuania. It seeks to apply norms and principles of the Framework Convention for the Protection of National Minorities of the Council of Europe in the broadest sense, taking into account all social, political, historical aspects as well as to accommodate the interests of different groups. This attitude was demonstrated by establishing the Council of National Communities under the President of the Republic of Lithuania in 2003. The Council's one of objective is to analyse the legal acts regulating the legal status of the national minorities and their organisations and to submit proposals on how to improve their situation.

It should be underlined the policy of Lithuanian authorities is to inform and hold consultations with the public at large about the draft laws and to take on board all constructive suggestions. In this regard, we would like to draw attention that in many cases the concern of national minorities, mentioned in the Opinion of the Advisory Committee, relates to the draft laws, but not to the currently valid legal acts. For instance, the new Law on Education entered into force on 28 June 2003, soon after the Advisory Committee submitted its opinion on the issue. The Law encompasses many proposals of national minorities. The law, especially its provisions on education in and of minority languages, received positive evaluation of representatives of national minorities. At the moment, the new Law on National Minorities is being also drafted.

Having analysed the Opinion on Lithuania of the Advisory Committee on the Framework Convention for the Protection of National Minorities, of February 21 2003, Lithuania submits its comments on following issues.

Article 3

18. Regarding the definition of national minorities, we draw your attention to the fact the Framework Convention for the Protection of National Minorities does not provide the definition of national minority. The terminology used by other international human rights instruments or organisations is not uniform. The new draft Law on National Minorities, currently under consideration, aims at defining the notions such as a national (ethnic) minority and a person belonging to a national (ethnic) minority. The draft proposes the following definition: "a person, belonging to a national (ethnic) minority, shall be a person who on his own free will chooses to associate himself with a national minority or an ethnic group and seeks to foster the culture of the national or ethnic group, its language, traditions, customs or ethnic self-awareness". The draft takes into consideration the subjective aspect of belonging to a national minority without giving any emphasis to the objective aspects. Therefore, the discussions on the issue are currently underway. The opinion of the Venice Commission on the draft law will be also taken into consideration while defining the terms.

24. According to the Passport Law and the Law on Identity Cards, the ethnicity is not recorded in the new personal identification documents (the passport and identity card) as of 1 January 2003.

Article 4

26. The new Law on Education was adopted on 28 June 2003. The representatives of national minorities commended the provisions, guaranteeing the right to national minorities to receive secondary education in their language and to learn their mother tongue. This opinion was expressed to the office of the Department on National Minorities and Lithuanians Living Abroad.

29. The new draft Law on Equal Opportunities has been submitted to the Seimas (Parliament) of the Republic of Lithuania in November 2002. The draft aims at ensuring equal opportunity rights granted by the Constitution and at prohibiting any kind of direct or indirect discrimination on the grounds of a person's age, sexual orientation, disability, race or ethnic affiliation, religion or convictions. The draft law envisages extension of the powers of the Equal Opportunities Ombudsman to enable the institution to investigate complaints regarding discrimination on the grounds of ethnicity or belonging to national minority. The Ombudsman will also carry out prevention and monitoring of these issues. There are plans to set up 6 additional staff posts for this institution.

30. Article 29 of the Constitution of the Republic of Lithuania provides that all people shall be equal before the law and a person may not have his rights restricted in any way, or be granted any privileges, on the basis of his or her sex, race, nationality, language, origin, social status, religion, convictions, or opinions. A prohibition of discrimination ensures principle of equality. This principle is established in the Law on Citizenship, Law on the Legal Status of Aliens, Law on Refugee Status and in other legal acts.

The Law on Citizenship establishes equal conditions and procedures for acquisition of the citizenship of the Republic of Lithuania for all persons regardless their ethnic origin. Under Article 12 of the Constitution of the Republic of Lithuania, no person may be a citizen of the Republic of Lithuania and another state at the same time, with the exception of cases established by law, for instance, if a person held citizenship of the Republic of Lithuania prior to 15 June 1940, or is a child, grandchild or great-grandchildren of such person (paragraph 1, Article 1, the Law on Citizenship of the Republic of Lithuania). This provision applies in cases of retention (Article 17, the Law on Citizenship), loss (paragraph 2, Article 18, the Law on Citizenship) and restoration of the right to the citizenship of the Republic of Lithuania (paragraph 1, Article 20, the Law on the Citizenship).

Entering into force of the new Law on Citizenship provoked heated discussions on these issues. In April 2003, the Law was discussed at a seminar organised by the Lithuanian Ministry of the Interior in co-operation with the Council of Europe. Following the seminar and request of the Lithuanian side, the Directorate General of Legal Affairs of the Council of Europe in co-operation with experts prepared and submitted comments on the Law's compatibility with the European Convention on Nationality. In the near future, the Seimas (Parliament) Committee on Human Rights is planning to submit amendments to the Law on Citizenship, which will be prepared with regard to comments and observation, expressed by the Council of Europe.

32-34. The Government of the Republic of Lithuania has been implementing the National Programme for the Integration of Roma into Lithuanian Society, adopted in 2000. The preparation of the second stage of the National Programme is currently underway. It envisages additional measures to improve the situation of housing, employment and access to education for the Roma community. On the basis of established legislation, efforts are being made to find a mutually acceptable solution on the illegally constructed buildings in the Kirtimai Romani settlement. Moreover, special measures such as seminars on Roma culture, traditions and way of life are being prepared for representatives of the media. Special training for the police officers, working in the area, is envisaged.

35. On 29 April 2003, the Seimas (Parliament) of the Republic of Lithuania adopted the Law on Additional Employment and Social Guarantees for the Staff of the Ignalina Nuclear Power Plant. The Law provides special employment and social guarantees ensured for the staff members of the Ignalina NPP who have been dismissed or are dismissed because of decommissioning of the first and second energy units. An individual plan will be drawn up for every dismissed staff member concerning employment and additional social guarantees. Seeking to create conditions for the retraining of the staff, the administration of the Ignalina NPP is obliged every year to prepare a list of anticipated staff reduction for forthcoming twelve months. The Law also establishes additional employment guarantees for the members of families of the Ignalina NPP staff members who are dismissed because of decommissioning of the first and second energy units.

36. According to the current Law On the Restitution of the Citizens' Right to Ownership to the Existing Real Property, the restitution of real property (land, forests, water bodies, plants and buildings for business and commercial activity) to former owners is currently underway. The Law establishes the conditions and procedure of restitution of the rights of ownership. It should be noted that neither a person whose rights of ownership may be restored, nor the property or the procedure of restitution of the rights are in any way related to person's belonging to national minorities; i.e., the restoration of the rights to ownership is not related to a person's ethnicity. The procedure and conditions of restoration of rights to ownership are being applied in the same manner everywhere in the territory of the Republic of Lithuania, regardless of whether a particular area is or used to be densely populated by a national minority. Taking into account the fact that some citizens due to various circumstances failed to submit the necessary documents proving that they are descents of the owner before the deadline expired, the deadline was extended till 31 December 2003.

Article 6

43. The Republic of Lithuania would like to declare that there have been no facts reported about cases of discrimination against asylum seekers or refugees in the Republic of Lithuania.

Under Article 17 of the Law on Refugee Status, asylum seekers and refugees have the following rights:

- 1) to live in the Aliens Registration Centre or Refugee Centre and use services thereof,
- 2) to prepare and notarise documents,
- 3) to enjoy legal assistance provided by the state,
- 4) to receive compensation for using public transport,
- 5) to enjoy translation services free of charge provided by the state,
- 6) to enjoy medical assistance at the Aliens Registration Centre and the Refugee Centre in accordance with established procedure,

7) to receive a monthly money allowance for minor expenses in accordance with the procedure established by the Government of the Republic of Lithuania or its authorised institution.

All conditions are created for children of asylum seekers and refugees to attend schools of general education.

45. The Government of Lithuania foresees additional special measures for representatives of the media aimed at raising their awareness of human and minority rights. The National Programme and an Action Plan to fight intolerance, racism, xenophobia and homophobia are currently being drafted. The programme envisages special measures such as surveys about discrimination and intolerance in the media, relevant seminars for journalists and their meetings with representatives of ethnic minorities, sharing experience in combating intolerance and discrimination in the media and establishing a prize for tolerance in the media.

46. See comments to paras 32-34.

Article 9

51. It should be emphasised that the specificity of programmes for national minorities was taken into account and the national broadcaster made an exception and decided to continue producing and broadcasting these programs during the summer season. Moreover, it was decided to allocate prime time for the programmes for national minorities in the autumn schedule. They will be broadcasted at 11 a.m. on weekends. Besides, the Lithuanian National Radio is preparing additional measures to improve the quality of the programmes for ethnic minorities.

Article 10

56. In the context of the revision of legislation concerned, Lithuania takes all steps to ensure its consistency and compatibility with Article 10 of the Framework Convention. The new draft law on national minorities is currently being considered. The new law on State language is also being drafted. The State Lithuanian Language Commission assured that the Advisory Committee's opinion will be taken into account and the provisions of the law will be in compliance with the relevant articles of the Framework Convention.

Article 11

58. The Government's resolution No 1395 of 27 November 1996 regulates use and change of public signs of street names, buildings, offices and other objects. The Ministry of Interior has prepared a draft amendment to this resolution, which foresees new rules on public signs of street names and building and including them into the record. Para 30 of the draft stipulates that "in the administrative territory of the residential areas where the national minority account for no less than 70 percent of the permanent residents, the public signs of office and street names may be both in Lithuanian and in the language of the national minority, the use of which is regulated by the laws of the Republic of Lithuania and other legal acts". The approval of the new rules will result in the avoidance of misunderstandings.

Article 12

59-73. All laws and legal acts, governing access to education by persons belonging to national minorities in Lithuania, are in support the efforts of the national minorities to preserve and

promote their language and culture. Article 30 of the new Law on Education, of 17 June, 2003, encompasses many suggestions and comments of the national minorities and provides persons belonging to national minorities with broader opportunities to study their language in the public education schools as well as in “informal” Sunday or Saturday schools. These opportunities are specified in several paragraphs. The law specifies that “at secondary schools of general education and schools of informal education, where, taking into account wish of pupils and their parents, education in the language of the national minority and promotion of their culture takes place, education is received in minority language or some subjects are taught in this language. This guarantees the continuity of education in the minority language. The law also stipulates that “state educational institutions, educational institutions on local level, institutions of pre-school education shall create conditions for students belonging to national minorities, to study their native language where there is a real need, provided that the school has a language specialist available and the education process takes place in another language”. Moreover, the law defines the possibilities to learn one’s mother tongue in the system of informal education. Therefore, the Law on Education – the main document defining the functioning of the education system – guarantees that there are more but not fewer possibilities to study one’s mother tongue or have it as the language of instruction.

Article 14

71. It should be noted that the recommendation to use textbooks and other materials in Lithuanian in the upper secondary school at national minority schools (provided in “Guidelines for the education of national minorities”) is not in breach of the right and preserves possibility to use textbooks in the minority languages. Under the new rules of publishing textbooks, the main orders for textbooks come from schools and publishing houses satisfy their needs. Student vouchers cover textbook funds, and such funds are increased by ten percent for pupils of a national minority school. The funds are to be used for acquiring textbooks, other teaching aids as well as other needs. We would like to draw attention to the fact that the number of students in the schools with Polish language of instruction has doubled since 1990 and currently remains stable, whereas the number of students at Lithuanian schools has been falling. During the academic year 1990/1991, the number of students at Polish schools amounted to 11.407 and in 2002/2003 the number of students was 21.314. The growth in the number of students proves that the state creates favourable conditions for the promotion of their national identity.

74. We would like to inform that since the last visit by the experts, the first ever textbook of the Roma language has been prepared and published. The publishing of the textbook should encourage students of Roma descent to learn their language and develop their language skills.

Article 15

75. Lithuanian legislation creates the necessary conditions for the effective participation of persons belonging to national minorities in public, cultural, social and economic life, which is in compliance with Art.15 of the Framework Convention. According to para. 2 of Article 82 of the Law on Elections to Local Government Councils, a list of candidates of a party or a political organisation may receive mandates in a local government council if it receives no less than 4 percent of the votes and candidates of a coalition list should receive no less than 6 percent of the votes. The possibilities for representatives of national minorities to be elected to the Seimas lessened during the period from 1990 to 2000. Representatives of national minorities accounted for 13.5 percent (19 MPs) of members of the Supreme Council – the Reconstituent Seimas – in 1990, whereas in the Seimas of 2000 – 2004 term, the numbers were 9.2 percent (13 MPs)

respectively. Representatives of national minorities accounted for 7.1 percent or 10 MPs in the Seimas elected in 1992 and the 1996 – 2000 Seimas had 5.1 percent or 7 MPs representing national minorities. During the elections to local governments of 22 December 2002, 4 political organisations of national minorities -- Lithuanian Poles' election Action, the Lithuanian Russian Union, the Russian Alliance and the Lithuanian Poles People's Party – received 65 mandates (4.17 percent) of local government councils, in 1997 elections there were 92 mandates or 6.31 percent and in 2000 there were 63 mandates or 4.03 percent respectively. Moreover, persons belonging to national minorities successfully participate in the activities of other political organisations not based on ethnicity. Persons belonging to national minorities also have other opportunities to take active part in public life. For instance, according to para 5 of Article 30 of the Law on Local Self-government, a neighbourhood council, consisting of representatives of local community, may be formed which work and advice on a voluntary basis. Persons belonging to national minorities have opportunities to become members of such councils and be actively involved in resolving all important aspects of public life.

79. Regarding implementation of Article 15 of the Framework Convention, we would like to add that the Government by its resolution No 228 approved the Statute of the Department of National Minorities and Lithuanians Living Abroad on 14 February 2003. Subsequently, on 27 March 2003 the Director General of the Department approved the composition and the regulations of the Council of National Communities, on 2 April 2003 the Board of the Department, with the chairman of the Council of the National Communities as a member, was set up. Moreover, the President of the Republic of Lithuania established the Council of the National Communities under the President by his Decree No 61 of 28 April 2003. The Director General of the National Minority Department and the Chairman of the Council of National Communities also are members of the Council under the President.

The Chairman of the Council of National Communities and other members of the Council are invited to take part in groups that draft laws related to national minorities.

Article 17

83. The temporary agreement between the Government of the Republic of Lithuania and the Government of the Republic of Belarus on the travels of nationals of the two countries entered into force on 1 January 2003 (Valstybės Žinios – Official Gazette, 1-1 2003). It regulates the issues related to entry, temporary residence and transiting the territory of the Republic of Lithuania and the Republic of Belarus. Under Articles 8 – 10 of the Agreement, relevant institutions of the two countries issue visas free of charge or reduce these charges by 70 percent.

IV. Main Findings and Comments of the Advisory Committee

Article 5

95. On 3 June 2003 the Seimas (Parliament) of the Republic of Lithuania approved the guidelines of the State Language Policy for the period from 2003 to 2008. They emphasise that “the Republic of Lithuania creates conditions for all persons belonging to national minorities residing in its territory to promote and develop their language”. A working group has been set up to work out an action plan for implementing the guidelines of the State Language Policy for 2003 – 2008.

Article 6

96. See comments to para 43.

Article 10

98. Under the provision of paragraph 2, Article 29 of the Law on Public Administration, if an applicant or other interested person cannot speak or understand Lithuanian, interpreting services must be provided during the administrative procedure. Even if it has not been established by legal acts, in practice civil servants, when addressed by members of national minorities in their native language, give answers in minority language, provided the civil servant knows the minority language. The conditions have been created for persons belonging to national minorities to use their language in communicating with the administrative authorities in conformity with Article 10 of the Framework Convention.

Vilnius, 19 September 2003