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**REPORT  
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**ON HIS VISIT TO LITHUANIA**

**23 – 26 NOVEMBER 2003**

**for the attention of the Committee of Ministers  
and the Parliamentary Assembly**

## INTRODUCTION

*In accordance with Article 3 (e) of the Committee of Ministers Resolution (99) 50 on the Council of Europe Commissioner for Human Rights, I was pleased to accept the invitation extended by Mr. Antanas Valionis, Minister of Foreign Affairs of the Republic of Lithuania to pay an official visit to Lithuania from November 23 to November 26 2003. I would like to thank the Minister for his invitation and for the resources he placed at my disposal throughout the visit, as well as Ambassador Neris Germanas, Permanent Representative of Lithuania to the Council of Europe and Ms. Dalia Ambrazeviciute of the Ministry for Foreign Affairs for their cooperation and assistance in arranging the visit. I am also grateful to Ms. Marija Prokopcik, Director of the Council of Europe Information and Communication Centre in Vilnius for their support in organizing the visit, in particular the meeting with non-governmental organizations. Finally, I would like to thank the Lithuanian authorities for their openness and transparency. During the visit, I was accompanied by Mr. Alexandre Guessel and Mr. Ignacio Pérez Caldentey, members of the Commissioner's Office.*

*In the course of the visit, I met with Mr. Antanas Valionis, Minister of Foreign Affairs, Mr. Anatolijus Rimkevicius, Undersecretary of the Ministry of Interior, Ms. Vilija Blinkeviciute, Minister of Social Security and Labour, Mr. Vytautas Markevicius, Minister of Justice, and Mr. Algirdas Monkevicius, Minister of Education and Science. I also met with the President and members of the Supreme Court, the President and members of the Constitutional Court, members of the Lithuanian Lawyers Association, Ombudsmen of the Seimas (Parliament), the Ombudsman of the Office of Equal Opportunities, the Ombudsman for the Protection of the Rights of Children, the Deputy Chairman of the Seimas and members of the Committee on Legal Affairs and the Committee on Human Rights, members of the Seimas Delegation to the Parliamentary Assembly of the Council of Europe, members of the Lithuanian Bishops' Conference, the Chancellor of the Orthodox Church and representatives of the Jewish Community. I visited the Pravieniskes and the Lukiskes penitentiaries, the Vilnius Police Detention Centre, the Rukla Refugees' Reception Centre, the Roma Community Centre in the Kirtimai district and a Shelter for Battered Mothers and Children in Vilnius.*

## GENERAL OBSERVATIONS

1. Lithuania joined the Council of Europe on 14 May 1993 and ratified the European Convention for Human Rights on 20 June 1995 as well as protocols 1 through 8 and 11. Lithuania ratified, on October 2003, Protocol 13 concerning the abolition of the death penalty in all circumstances. Lithuania has also ratified the Framework Convention for the Protection of National Minorities, the revised European Social Charter, the European Convention on the Suppression of Terrorism and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Lithuania has neither signed nor ratified the European Charter for Minority or Regional Languages, the European Convention on Nationality and the European Convention on the Exercise of the Rights of the Child.
2. Lithuania has made significant progress during the ten year period following the country's accession to the Council of Europe in the field of human rights as a result of the efforts made by the Lithuanian authorities and civil society as a whole. Complex

and difficult issues such as the treatment of minorities, the situation of prisons and the functioning of the judiciary, among others, have been dealt with in an open and transparent way that has contributed to significant improvement in these areas. Substantial efforts have also been undertaken to bring national legislation into harmony with international laws.

3. Problems do, however, remain in the areas of domestic violence, the administration of justice, specific aspects on legislation concerning nationality, the situation of certain detention centres and the trafficking in human beings. In all these issues, I found that Lithuanian authorities are very open to discuss the situation and to find ways of improving it.

### **THE JUDICIARY AND THE PRISON SYSTEM**

4. The new and long-awaited Law on Courts, which entered into force on May 2002, represents a major development. It establishes a Council of Courts which has budgetary competences, selects candidates and advises the President of the Republic on the appointment and transfer of judges, giving the courts substantial and comprehensive institutional as well as administrative autonomy. The National Court Administration, created in March 2002 and in charge of providing the necessary assistance to the institutions of the judiciary, completes the modernisation of Lithuania's judicial framework. The new Criminal Code, the Code of Criminal Procedure and the Code of the Enforcement of Punishments which entered into force in 2003, represent a fundamental step ahead in bringing legislation into harmony with European and international standards. The new legislation should shorten the time required for criminal investigation meaning that fewer persons will be detained under preventive detention. General prison sentences will also be reduced and alternative mechanisms of punishment to imprisonment will be developed. Finally, in March and in April 2003 respectively, the Seimas amended the Constitution and the Law on Public Prosecution to strengthen the independence of public prosecutors and to clarify its status and powers as heads of pre-trial investigations.
5. According to some NGOs, Lithuania has one of the most efficient and developed judicial systems in Eastern and Central Europe. However, there is still no system of supervisory evaluation. Consistent with the principles of judicial independence and accountability, serious consideration should be given to developing a system of periodic assessment of judges' professional performance. The National Court Administration, which among others has the responsibility for analyzing courts' activities and submitting proposals pertaining to working conditions in the courts, could possibly undertake this task. Also, training still needs to be placed on a stable and sustainable footing. Other problems that should be tackled are the excessive length of judicial procedures (although this has been given a high priority by the authorities and the number of pending cases has been reduced by three to four times in the last years), the lack of impartiality of certain judges, insufficient confidence within society towards judges and courts in general and inadequate human resources.

6. On top of their own judicial work, judges have to perform administrative tasks. Lithuanian authorities recognized this problem and in October 2002, the Council of Courts adopted a Resolution whereby an assistant will be appointed for every judge. While the Supreme Court, the Court of Appeals and the Supreme Administrative Court have a sufficient number of assistants, this is not the case in district and county courts. Recruitment also seems to be problematic, perhaps due to a certain rigidity in the system. In this respect, the new legislation does not make clear in what order candidates for vacancies of district courts should be included on the list presented to the State President and the Council of Courts or how candidates will be selected from it. This procedural gap gives a large margin of discretion to the National Court Administration and the Council of Courts, undermining confidence in the objectivity of the system. I was informed that last year there were 60 vacant posts of judges to be covered and at present there are 80. Given the needs Lithuania has in terms the administration of justice, this is a surprisingly high figure. Finally, concerning the establishment of specialized courts (in family cases, for example), the Supreme Court seems to favour the specialization of existing judges rather than the creation of new courts.
7. The prison system has undergone a deep transformation which has allowed significant improvement in aspects like ill treatment, overcrowding and general living conditions for the prisoners. The transfer of responsibility for the penitentiary system from the Ministry of the Interior to the Ministry of Justice in September 2000 has been a highly positive step. As the Minister of Justice himself told me, the improvement of prison conditions was one of the priorities of the Government after Lithuania's adhesion to the Council of Europe.
8. I visited two prisons, Pravieniskes Penitentiary No. 3, some 80 kms. to the north west of Vilnius and Lukiskes Prison in the capital, in which I found conditions to be correct. In the first facility, which has an open door regime, all prisoners had a bunk bed and were provided with blankets. Although dormitories are large, they have to accommodate between 10 and 20 people. In some rooms, I saw chests of drawers, wardrobes and television sets. Some prisoners expressed to me their wish to be able to go out in the court yard more often. In this facility, a new and separate unit for minor offences had been built. At Lukiskes Prison, an establishment built in 1904, renovation and repainting of some units has taken place. Although there did not seem to be overcrowding conditions in the cells I visited, between two to four inmates have to live in spaces of about 8 square metres which leaves little room for any furniture apart from double bunk beds. It should be kept in mind that the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) recommends a minimum of 5 square metres per person in detention cells. In this prison, isolation cells (used solely for temporary placement of detainees upon their transfer from or arrival to the prison) are dark, have no windows and offer only provisional beds and therefore need urgent improvement. The Seimas Ombudsman has already expressed his concern for the situation of isolation cells in Lithuanian detention facilities. In both prisons, the existence of activities for inmates was rather scarce although they have the possibility to study through distance learning institutions. Finally, I was surprised to see that the vast majority of inmates at both facilities were very young (in their twenties), a characteristic which according to the authorities, is common to most prisons in Lithuania.

9. The existence of life time imprisonment and the lack of clear alternatives remains one area in which additional efforts should be made. As the Minister of Justice told me, life imprisonment replaced capital punishment when it was abolished. In Lukiskes Prison, there are 90 life time inmates and none of the ones I talked to seemed to know what possibilities the legislation offered them for reviewing their sentences (in spite of Article 11 of the Code of the Enforcement of Punishments which states that sentenced persons have a right to receive written information on the conditions for serving their sentences, the lack of information by prisoners is, in general, a problem and was highlighted to me by several NGOs). According to present laws, there is no possibility of a review before a ten year period except if the President grants a pardon or if the Parliament concedes an amnesty, which is extremely rare. After entering into force of the new Penal Code in May 2003, 85 lifetime inmates have applied for a review of their sentences. 51 sentences remained in force, in 10 cases the regime of serving the sentence was changed and 24 decisions are still pending. Life imprisonment should not constitute an absolute obstacle to reinsertion into society. It is important that detainees serving such sentences are fully aware of their rights and the requirements in respect of release.
10. The Vilnius Police Detention Centre was far from adequate and is in need of some urgent improvement, in particular concerning the number of beds in each cell and the state of cleanliness, especially in the lavatories which also adversely affects the working conditions of the staff. Lithuanian authorities are fully aware of this and the Minister of Justice informed me there is a program for the renewal of pre-trial detention facilities for the period 2003-2007 by which 38 detention centres throughout the country will be refurbished with the aim of bringing them up to European and international standards. In this context, it must be said that although criminal suspects can be held in police custody up to 15 days, detainees are often held for a longer period. Persons held for such periods of time should have better conditions of detention than the ones described above.
11. One major concern is the spread of infectious diseases, and in particular HIV due to drug abuse by inmates. A large percentage of prisoners continue to abuse drugs despite the efforts of the Government to curb the availability. In the past two years, some detention facilities have been supplied with modern equipment for detecting and identifying narcotic substances. It is expected that in 2004, more detention centres will receive this equipment. Furthermore, the Ministries of Justice and Interior adopted, in March 2003, a Plan for Joint Measures against Illicit Trafficking in Narcotics which envisages specific measures on how to prevent the smuggling of drugs into centres of detention. Finally, all detainees undergo, upon their arrival to the centre, a medical examination for contagious infectious diseases (HIV, hepatitis B, syphilis and tuberculosis).

**REFUGEES AND ASYLUM-SEEKERS**

12. Lithuania is a party to the United Nations Convention on the Status of Refugees of 1951 and to its 1967 Protocol. A new Refugee Law was adopted in June 2000 and amended in January 2002 introducing procedural guarantees concerning the detention of asylum seekers. This legislation is complemented by the Law on the Legal Status of Foreigners, which entered into force in July 1999 and provides for the possibility of granting temporary residence on humanitarian grounds, *inter alia* to persons who do not meet the requirements of the Convention on the Status of Refugees, but who are found to be in need of international protection.
13. Since 2000 there has been a sharp increase of refuge and asylum demands, the majority coming from Chechnya and Afghanistan and to a much lesser extent India and Sri Lanka. It can be expected these numbers will increase when Lithuania joins the European Union in May 2004. Considerable improvement has taken place regarding the conditions of centres for refugees. I visited the Refugees Reception Centre in Rukla, financed by the Ministry of Social Security and Labour, which houses several families (often whole groups) of different nationalities, mainly Chechens. Most of these persons arrived in Lithuania through the Belarussian border. I found living conditions to be good. A program of social integration including temporal accommodation, Lithuanian language courses, assistance in finding employment, an allowance for daily expenses as well as allocations for health care, has been put in place. In general terms, Lithuanian society is very sensitive and receptive to the refugee problem given the fact that many Lithuanians have been refugees themselves for many years.
14. Regarding the procedure to obtain the status of refugee, the system is consistent with the Dublin Convention on Asylum and the Schengen *acquis* and, according to the Law on the Status of Refugees, a foreigner can apply for asylum at the border crossing point. The whole procedure lasts a total of 6 months which can be extended for a similar period. Efforts have been undertaken to shorten the procedure to 3 months. The applicant for the status of refugee who has identity documents is sent to the Rukla centre. Once the refugee status is granted, the applicant is then transferred to a specific Municipality which will take care of him or her. The total number of refugees is estimated to be between 2000 and 3000 people.
15. The situation of undocumented people poses, however, a problem. Persons without the proper papers who are detained at the border are, in most cases, expelled towards their country of origin except in cases where there are conditions of war or extreme violence such as Chechnya (principle of *non refoulement*). Before such a decision is taken, however, the Migration Department of the Ministry of Interior examines, within a period of 48 hours after receiving information on the applicant from the Border Security Service, all circumstances and takes a decision on the legal status of the foreigner irrespective of the fact that the person has valid travel documents or not. The Order on Determination of the Safe Country of Origin and the Safe Third Country and Return or Deportation of Foreigners approved in October 2000 by the Ministries of Interior and Foreign Affairs, contains provisions regarding the procedure for deportation. According to this norm, the safe third country principle is not applicable

if the foreigner's transit through the third country lasted less than 48 hours or if he belongs to a group of particularly vulnerable persons, that is persons who require special attention such as minors unaccompanied by their parents or their legal representatives; persons who have suffered traumas and torture; persons with mental disorders; the elderly; and persons who are in need of regular attendance due to poor health condition. The person who is denied the status of refugee by the Migration Department of the Ministry of Interior and is thus subject to expulsion has the right, in the fourteen days that follow, to appeal before the Vilnius District Administrative Court, which will consider the case in terms of both law and fact. As soon as the appeal is filed, the expulsion procedure is automatically stopped. Foreigners recognized as refugees in Lithuania are issued a permanent residence permit and documents for travelling abroad. According to the European Commission against Racism and Intolerance (ECRI), considerable improvements have taken place in recent years in the conditions of detention of asylum-seekers in the Foreigners Registration Centre in Pabrade, near the Belarusian border, which now includes dedicated facilities for them, separate from those used for persons held in connection with the commission of criminal acts.

## **THE SITUATION OF CERTAIN VULNERABLE GROUPS**

### **Victims of trafficking in human beings**

16. In 2003 as in previous years, Lithuania remained a country of origin, transit (in particular, between Eastern and Central European countries) and destination for trafficking of persons. The majority of those involved were young women taken to other countries to work as prostitutes. According to the International Organization for Migration (IOM), a large majority of women who received assistance to return to their countries by this organization's office in Bonn, come from Lithuania. Also, other forms of trafficking in human beings such as using people for illegal employment abroad have emerged in Lithuania due to the still high level of unemployment. One of the problems, when dealing with this issue, is the absence of statistical data or social surveys. Lithuania has ratified the United Nations Convention against International Organized Crime in April 2002.
17. The new Criminal Code provides for strict sentences (up to eight years of imprisonment) for trafficking in human beings and contemplates criminal liability for trafficking of children, which carries a sentence between two and ten years. According to figures supplied by the Ministry of Interior, 8 people were sentenced in 2002 and 12 in 2003 for trafficking in human beings. However, current law does not pay sufficient attention to the activities of the criminal networks and on assisting the women involved. Also, Lithuanian legislation does not identify precise methods for compensating the damage caused to victims of trafficking and does not provide for a possibility to exempt them from legal responsibility for such acts as illegal immigration or give them the option to remain in Lithuania for a certain period during which these persons can decide on filing a criminal case and giving evidence. It should be mentioned, however, that in 2002 the government approved the National Program for Control and Prevention of Trafficking in Human Beings and Prostitution 2002-2004, aimed at organizing a system for the control and prevention of trafficking

which involved a broad range of prevention methods including educational, socio-economic and medical measures as well as legal initiatives. Nevertheless, and in spite of the efforts by the Ministry of Social Security and Labour which organized in 2002 and 2003 tenders for social assistance projects directed towards the reintegration of trafficking victims, Lithuania does not have an overall rehabilitation programme for victims of human trafficking and forced prostitution. This Ministry approved, nevertheless, on July 2003, a Program for Psychological Rehabilitation and Professional Orientation and Employment of Victims of Trafficking and Prostitution, which is currently being implemented. The Lithuanian government also seeks to create a general institutional framework for providing comprehensive legal, medical and social assistance to victims where the local authorities would play a central role. Also, an increasing number of public institutions and NGOs provide assistance for victims of trafficking and prostitution.

18. In the international context, the Baltic Assembly approved, on 29 November 2003, a Resolution which among other recommendations, calls on the Parliaments and the Governments of the Baltic States to harmonize legislation in this area and to improve the work of law enforcement bodies. Also, the IOM is assisting in the training of police officers and social workers to deal with this problem.

### **Domestic violence**

19. Domestic violence against women is very widespread in Lithuania, with the large majority of cases taking place at home. According to the National Programme of Equal Opportunities for Women and Men for 2002-2004, approximately 63% of adult women in Lithuania have at least once suffered physical or sexual violence of men or threat of such acts before reaching the age of 16. About 42% of married women or women living without official registration of their marriage have at least once suffered physical or sexual violence from their spouse or partner or threat of such acts. In a survey conducted in 2001-2002 as part of the educational campaign "Life without violence", data shows that psychological violence or coercion was experienced by 82% of the interviewed women older than 16, and physical coercion by 35% of women. 87% of all respondents confirmed the existence of coercion against the woman in the family. As in many other countries, only a small percentage of cases are reported. Part of the problem is that this sort of violence is still considered in Lithuanian society, as in other countries, as a private and domestic issue and not as criminal violence as such and therefore as a violation of fundamental rights. In this respect, it is necessary to introduce radical reforms to deal with this problem effectively.
20. Although there is no specific law dealing with domestic violence, Section XXIII of the new Criminal Code contains general punitive measures for domestic violence. The problem, however, often lies within the interpretation of the legislation. In the specific case of domestic violence, experience demonstrates that legal opportunities regarding criminal or administrative prosecution of perpetrators and their isolation from the family where violence occurs, are particularly limited. Sanctions against the perpetrators tend to be very limited as well as direct police influence on them.



21. In general terms, judges and the police (generally, the municipal police) very seldom intervene, except in cases of extreme gravity. Also, with the exception of the most violent cases, the police do not inform judges and prosecutors on a regular basis. Furthermore, the sanctions the police can apply to influence persons with a violent behaviour are limited. An impression of impunity results from this situation and intervening police officers are often themselves victims of aggression. Normally, it is the victim who must undertake penal action. In order to deal with this problem, the Ministry of Social Security and Labour is carrying out a Program against domestic violence, including sexual abuse, and an Action Plan against violence towards children. Another positive step has been the establishment in Vilnius of a crisis management information centre for men involved in domestic violence. Also, an inter-institutional working group formed by the Minister of Interior has been working on amendments to the centralized system of criminal statistics. This will allow the storage of reliable and quality statistical information about criminal acts, victims and suspects as well as data by gender and marital status. The establishment of special courts or specialized judges to deal effectively with domestic violence related cases seems all the more urgent and necessary. From the information I gathered, it is very often the victim who has to abandon the family home and not the aggressor.
22. Although since 1994 extensive research on domestic violence has been carried out, the country does not have social programmes with sufficient financing from the state that would help a woman abused at home to be economically independent. On this issue, I would like to highlight the significant and valuable work done by several NGOs (more than 28) which provide support for victims of domestic violence and work on several areas of this serious and complex problem such as awareness raising, information campaigns, training and publications. I also wish to mention the excellent work carried out by the Shelter for Battered Women and Children in Vilnius, which I visited, and the urgent need for more establishments of this kind in throughout the country.
23. Aside from women, domestic violence especially affects children and, according to some NGOs, a large percentage of children in Lithuania are subject to some sort of physical or psychological violence. According to the new Criminal Code, sexual abuse against a child is punishable with up to 5 years of imprisonment. A positive development in this respect has been the establishment of the Institution of the Controller for the Protection of the Rights of the Child and the Law on the Fundamentals of the Protection of the Rights of the Child. Some NGOs have expressed concern over the widespread use of physical punishment against children both at school and at home.

### **Equal opportunities**

24. Lithuania possesses a body of legislation which promotes gender equality, prohibits discrimination on the basis of gender and introduces the concept of indirect discrimination. On 18 November 2003, the Seimas adopted the Law on Equal Opportunities which will enter into force on 1 January 2005. This law prohibits direct and indirect discrimination on the grounds of age, sexual orientation, disability, race or ethnic origin, religion and belief and extends the competence of the Office of the Ombudsman for Equal Opportunities to investigate the cases of alleged discrimination on these grounds. Also, the National Programme on Equal Opportunities for Women

and Men 2003-2004, which foresees activities and projects in the areas of employment, education, politics, decision making, as well as measures on violence against women and trafficking in women, and the strengthening of institutional capacities and the development of tools and methods, should be mentioned. Finally, the establishment of the Office of the Ombudsman for Equal Opportunities represents a major step forward in fighting discrimination at all levels.

### **The mentally handicapped and the elderly**

25. In this area, the Ministry of Social Security and Labour has undertaken significant efforts to promote the social integration of the physically and mentally handicapped. It was recognized, however, that there is still progress to be made in some aspects, for example the access of handicapped persons to public buildings. Also, important social problems remain concerning, for instance, equal opportunity in employment. Among the handicapped, the rate of unemployment is still high and real possibilities for working are available only to people with less severe disabilities. Concerning retirement, the draft Law on Social Pensions, should allow for a rise of social pensions for the handicapped and also for those who have handicapped children.
26. Regarding the elderly, one of the main problems is the inadequacy of pensions although there are plans to approve a rise of 7% for next year. Several years ago, provisions were enacted which allowed the reduction of the pension if the beneficiary was still working. These provisions were, to a certain extent, justified considering the high level of unemployment which existed in Lithuania at the time and the fact that these pensioners prevented young people from entering the labour market. At the end of 2002, the Constitutional Court ruled that the exercise of the right to work should not be considered as a ground for limiting social security or pension benefits. The government made the appropriate legislative amendments.
27. In the cases of both the handicapped and the elderly, there is a lack of appropriate care programmes and adequate centres.

### **NATIONAL MINORITIES**

28. Lithuania has taken an open and flexible approach towards the question of minorities. The Constitution determines that citizens belonging to ethnic communities “shall have the right to foster their language, culture and customs”. On the whole, minorities are integrated quite well into everyday life and, aside from very specific points which I will touch upon later in the report, there is no discrimination as such.
29. National minorities constitute roughly 16,8% of the total population in Lithuania and include mainly Poles, Russians, Belarusians and Ukrainians. According to the Constitution, members of minorities have the same rights and obligations as Lithuanians. A new Law on National Minorities, which places greater emphasis on the individual rather than on the community approach and makes no distinction connected with factors such as length of residence in the country, historical links with the State or geographical location, is currently being drafted. The definitions of “national (ethnic) minority” and of “persons belonging to a national minority” are of special interest since they recognize the importance of the subjective choice of the person to belong to a particular ethnic group.

30. In 1989, the Lithuanian government adopted a law on citizenship, which enabled all permanent residents to obtain Lithuanian citizenship if a request was made in this sense in the two years following the coming into force of the law (the so called “zero option”). The great majority of residents, including more than 90% of persons of non-Lithuanian ethnic origin, obtained Lithuanian citizenship in this way. A second law, modified in 1997, was adopted in 1991 enabling access to citizenship for those persons who still did not have it if certain requirements were fulfilled, namely residence in the country for 10 years, have a source of income and pass a language and Constitution test. Although there are no precise figures, according to the ECRI, a few hundred Roma remain without citizenship today as they failed to apply for citizenship before the two-year deadline. These persons possess permanent residence permits and have been assisted by the authorities to collect the necessary documents to prove their families’ residence in Lithuania before June 1940 (according to Lithuanian law, citizenship is also granted to persons whose families lived in the country up to that date).
31. A particular problem, which could be considered as a basis for discrimination, concerns dual nationality. According to article 18.2.2 of the Law on Citizenship, the rule that Lithuanian citizenship is lost where an individual acquires the citizenship of another state, does not apply to persons of Lithuanian origin. Representatives of some national minorities have expressed their deep dissatisfaction with this provision and the manner in which it was introduced in the legal system. They consider it discriminatory since it establishes two categories of persons among Lithuanian citizens, to whom different standards apply depending on their ethnic origin. Although the primary intention behind this formula was to allow Lithuanians living abroad to return to the country without difficulty and without losing the nationality of their country of residence, it does not justify the distinction which, according to the criterion of ethnic origin, is drawn between Lithuanian citizens who, under article 29 of the Constitution, are equal before the law. In November 2003, a group of Parliamentarians filed, before the Constitutional Court, a request to investigate whether Article 18 of the Law on Citizenship is in contradiction with the Constitution. It is expected that the provisions of the law will be reviewed after the Court’s decision.
32. On January 2002, the Ministry of Education approved new regulations for minority education which allow for the use of minority languages as the main language in compulsory education. Thus a student from a national minority can do his entire schooling in his own language, Lithuanian being taught as another regular course. Although the authorities encourage the students to chose courses taught in Lithuanian, this is not by any means compulsory. Of the foreign language schools in Lithuania, the large majority are split between Russian and Polish and to a much lesser extent, Belarusian. During my visit, I found that most people, including the authorities, fluently and gladly converse in other languages, primarily in Russian.

**The situation of the Roma minority**

33. There are approximately 2.600 Roma in Lithuania. The largest community lives in Kirtimai, in the outskirts of Vilnius, where I visited the Roma Community Centre. This well-equipped establishment provides basic services to the community including social assistance and educational and cultural activities. Living conditions in the Roma settlement of Kirtimai are harsh with most of the population unemployed and houses lacking basic infrastructure and facilities. There are complaints about the lack of integration and the discrimination Roma face in many areas of everyday life such as education, housing, health care, employment and access to citizenship. During my visit to the Centre, representatives raised the question of Lithuanian Roma killed during the Nazi occupation (estimated at about 500 people) and complained about the excessive length in the resolution of cases and possible financial compensation.
34. To promote Roma integration while protecting Roma national identity, the Lithuanian government, through the Department of National Minorities, the Municipality of Vilnius and the Ministry of Education and Science, launched the Programme for the Integration into Lithuanian society 2000-2004 which focused, in an initial phase, on the Kirtimai community. The Programme acknowledges that Roma face specific problems in some areas and identifies budgetary allocations for integration and development initiatives.
35. It should also be said that while Kirtimai holds the largest concentration of Roma, the situation of this community in other parts of Lithuania also deserves attention. The second phase of the Programme for the period 2005-2010, already in preparation, will in principle extend its initiatives to other regions in Lithuania where there are large Roma communities.

**RIGHT TO RESPECT FOR PRIVATE LIFE**

36. The right to private life is either not known or hardly identified by the majority of Lithuanians who very rarely appeal to courts or other institutions such as the Ombudsman regarding the infringement of the right to privacy. NGOs have expressed their concern about increasing violations of privacy laws by the media and business groups and by increased violations on monitoring of the Internet.
37. Although the Constitution and the new Criminal Code prohibit arbitrary interference with private life, the implementation of these provisions is not sufficient due to the fact that these legislative provisions are relatively new and poorly understood. At present the most problematic spheres in Lithuania with respect to this issue, concern access to public information, the management of personal data and the activities of law enforcement institutions. According to the Law on Operational Activities, prosecutors have the right, on their own decision, to sanction the collection of information only in cases where human life, health and property are endangered. In this case, the prosecutor having adopted such a decision shall submit, within 24 hours, a written recommendation before a judge for the approval of the lawfulness and reasonableness of such acts. Should the judge not approve the reasonableness of such

actions, they shall be terminated and the information destroyed immediately. Although the Constitution and the Civil Code establish that information concerning the private life of an individual may be collected only upon a justified court order, there appear to be several cases where the right to private life has been violated in the sphere of public information. The Civil Code provides for only one exception when information on an individual's private life can be disseminated. It can be done only when, taking into account the office of a person or his status in society, dissemination of such information is in conformity with the legitimate and reasonable interest of the society to be aware of such information. The notion of "public person" is defined by court practice and in commentaries to the Civil Code as those who because of their professional position, activities or social status are constantly in the centre of public attention and raise justified public interest (for example, politicians, high state and municipal officials, famous artists, actors and businessmen). One of the most problematic areas remains personal data management which can be very easily accessed by public servants. The Law on Legal Protection of Personal Data which prescribes a procedure for collection, management and use of personal data, sets forth only general standards and requirements for data protection and security. An important step forward in this issue has been the establishment of the State Data Protection Inspectorate, which is directly responsible for the implementation of this law. Finally, following a Constitutional Court Decision on 19 September 2002 on the right to privacy in telecommunications operations, a new version of the Law on Operational Activities is in force and the Law on Communications has been amended.

## **SOCIAL AND ECONOMIC RIGHTS**

38. Positive improvements have been observed in the Lithuanian labour market. The unemployment rate has been falling steadily. Also, the increase in the average wage was another positive development. In 2002, the Parliament approved a new Labour Code which moves Lithuanian law into line with relevant EU legislation, international labour norms and with the revised European Social Charter.
39. Regarding trade unions, the percentage of affiliation is still very low among Lithuanian workers. Also, according to the new Code on Civil Procedure approved in 2002, trade union lawyers are no longer allowed to represent and defend their union members on appeal to the Supreme Court.

### **The restitution of private property**

40. The restitution of private property, both lands and buildings, nationalized during the Soviet period continues to pose some problems. This situation, which is common to other countries in Eastern and Central Europe, affects individuals as well as religious communities as I was able to observe during my conversations with representatives of the Catholic Church, the Orthodox Church and the Jewish community. A large number of complaints filed before the Seimas Ombudsmen relate to this issue. From the information I gathered, this problem weighs heavily in the minds of Lithuanians and exasperates them given the length of the whole process and the suspicion of corruption.

41. The government has undertaken efforts to solve this problem and a project is underway to restore all seized land by 2005 although there seem to be some problems with the Municipality of Vilnius. It is clear, however, that it is materially impossible to restore all property given the unbearable cost it would have for the State.
42. The restitution of building raises, however, a different sort of problem since there are two colliding rights, that of the owner and that of the present occupant. In this case, financial compensation to the proprietor seems to be the most appropriate solution.
43. The Law on the Procedure for the Restoration of the Rights of Religious Communities to the Existing Real Property provides these communities with a possibility of restoring their rights. All buildings belonging to the Orthodox Church have been returned. In the case of the Jewish Community, however, the problem is far from being solved and, as its representatives told me, in Vilnius only two synagogues have been returned. According to Lithuanian authorities, part of the problem is that Jewish communities did not have a chief religious authority before the war and recognition of the status of Jewish religious communities established after Lithuania regained its independence as rightful successors of the pre-war communities is therefore complicated. Nonetheless, and in spite of the described difficulties, synagogues and other buildings that used to belong to the Jewish communities are in the process of being returned in Kaunas and other towns. The Ministry of Justice has presented amendments to the law, which has been modified several times already, to help solve this situation. As for the Catholic Church, it has recovered most of its properties.

## **FINAL COMMENTS AND RECOMMENDATIONS**

44. Lithuania has achieved significant success these last ten years in the promotion and respect of human rights. As a result, it can be said that fundamental rights and liberties are widely respected today. Having successfully taken up the challenge of consolidating democratic institutions and making the transition to a market economy, the country faces now the challenge of joining the European Union which will bring major and economic and social changes. In order to assist and encourage Lithuania in its task, and in accordance with Article 8 of Resolution (99) 50, the Commissioner makes the following recommendations to the Lithuanian authorities:
  1. Pursue its efforts to achieve greater judicial independence and efficiency by tackling issues such as the length of judicial proceedings and establishing a performance evaluation system and regular training for judges;
  2. Provide judges and courts with the necessary human resources to carry out their work. Funds should be allocated for the recruitment of sufficient court assistants as well as filling out the remaining vacancies for judge s;
  3. Create, as a matter of urgency and necessity, special courts or specialized judges to deal with complex and difficult issues such as domestic violence;
  4. Continue efforts to improve living conditions in prisons. The renewal of pre-trial detention facilities is urgent and should be given priority;

5. Examine alternatives punishing measures to imprisonment. Life imprisonment sentences should be periodically reviewed. Additional efforts should be also be made to inform the inmates of the possibilities they have for alternative sentences;
6. Take appropriate measures to ensure that no exceptions are made to the principle of *non refoulement* with which Lithuania already complies. Develop alternatives to the detention of asylum-seekers;
7. Develop necessary and firm measures against the trafficking in human beings. Criminal prosecution of this practice should focus on the network and not on the victim who should be given assistance especially if he or she provides information that can lead to the detention and prosecution of those involved;
8. Draw up a national plan for combating domestic violence. Only a coordinated action between the judiciary and the police can be effective in fighting against this practice. Specialized training for judges and police officers should be considered as a priority. Greater efforts should be made to establish a wider network of reception centres for the victims;
9. Envisage measures to improve the care of the elderly and persons with mental disability, including the development and rehabilitation of appropriate care centres;
10. Review the regulation on dual citizenship once a decision by the Constitutional Court has been adopted;
11. Broaden the existing integration programmes for the Roma community, with a view to improve the access to employment, housing, health and education;
12. Accelerate the process of restitution of private property to individuals and religious communities;
13. Take appropriate measures, in particular implementing existing legislation, to ensure the protection of personal and private data as well as regulating the use of information in the case of public persons. Also, it is of the utmost importance to develop legal education and explain to people the content of the right to privacy and ways of protecting it.