

ECRI

European Commission against Racism and Intolerance
Commission européenne contre le racisme et l'intolérance

CRI (97) 56

European Commission against Racism and Intolerance

ECRI's country-by-country approach:

REPORT ON LITHUANIA

Strasbourg, September 1997



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INTRODUCTION

The European Commission against Racism and Intolerance (ECRI) was set up in 1994, at the instigation of the first Summit meeting of Heads of State and Government of the member States of Council of Europe, to combat the growing problems of racism, xenophobia, anti-Semitism and intolerance threatening human rights and democratic values in Europe. The members of ECRI were chosen for their recognised expertise in questions relating to racism and intolerance.

The task given to ECRI was to: review member States' legislation, policies and other measures to combat racism, xenophobia, anti-Semitism and intolerance and their effectiveness; propose further action at local, national and European level; formulate general policy recommendations to member States; and to study international legal instruments applicable in the matter with a view to their reinforcement where appropriate.

One aspect of the activities developed by ECRI to fulfil its terms of reference is its country-by-country approach, which involves carrying out an analysis of the situation in each of the member States in order to provide governments with helpful and concrete proposals.

The procedure adopted for the preparation of country-specific reports can be summarised thus:

- a. The preliminary collection of information as well as the preparation of the texts of the preliminary draft reports are carried out in small working groups of ECRI. Preliminary sources of information used are wide-ranging, including, *inter alia*, replies provided by governments to a questionnaire sent out by ECRI, input from the relevant national members of ECRI, information on national legislation collected for ECRI by the Swiss Institute of Comparative Law¹, information from international and national non-governmental organisations, various publications and the media.
- b. ECRI examines and discusses the preliminary draft report on each country in plenary session and adopts a draft report.
- c. The report is sent to the relevant government for a process of confidential dialogue conducted through a government-appointed national liaison officer. The draft country report is re-examined and possibly revised in the light of the comments provided by the latter.
- d. The report is then adopted in its final form by ECRI in plenary session, and transmitted through the Committee of Ministers of the Council of Europe, to the government of the country in question. Two months after this transmission, the report is made public, unless the government of the country concerned expressly requests that it is not made public.

¹ *The report prepared by the Swiss Institute (ref: CRI (97) 38), covering relevant legislation in member States of the Council of Europe is available from ECRI's Secretariat.*

The first series of eleven ECRI's country-specific reports² were transmitted to the governments of the countries concerned in July 1997. The reports are accordingly now made public. The following report contains ECRI's analysis and proposals concerning Lithuania.

It should be noted that ECRI is carrying out its country-by-country procedure by preparing reports for all forty member States of the Council of Europe. This first series of eleven reports, for which the procedure was completed by June 1997, will be followed by other series of reports on the remaining member States of the Council of Europe. The order in which the reports are produced has no significance other than that these are the first reports to be completed.

The publication of this report represents the start of an on-going and active process of exchange between ECRI and the authorities of each of the member States, in order to identify solutions to the problems of racism and intolerance facing Europe. ECRI will also welcome the input of non-governmental organisations and other parties working in this field to ensure that its work is as constructive and helpful as possible.

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² *Reports on Belgium, the Czech Republic, Finland, Greece, Hungary, Iceland, Ireland, Lithuania, Luxembourg, Malta and Poland.*

REPORT ON LITHUANIA ³

Introduction

Lithuania is a country in which independence has recently been re-established. It is a young democracy, passing through a period of transition socially, economically and culturally. The problems identified in the country and the solutions put forward to deal with these problems should be seen against this background.

Great efforts have already been made in Lithuania, but it is evident that both time and above all resources are necessary to further develop democracy. In particular, a law on national minorities came into force in Lithuania in 1989, and the government appears to be well aware of the needs of the country's national minorities. However, there must be political will for further action in this respect.

In general, Lithuania does not appear to be subject to severe manifestations of racism, xenophobia or intolerance.

Some of the key areas identified by ECRI as meriting particular attention include:

- the participation of minority groups in the daily life of Lithuania, the securing of their rights and the protection of their languages;
- gaps existing in the legislation against racism and discrimination and the need to add to this legislation;
- the need for awareness-raising among the general public and target groups as regards international legislation.

³ *Note: Any development subsequent to 7 June 1996 is not covered by the following analysis and is not taken into account in the conclusions and proposals.*

I. LEGAL ASPECTS⁴

A. International Legal Instruments

1. Lithuania has acceded to the main international conventions for the protection of human rights. Its recent ratification of the European Convention on Human Rights, including the right to individual petition (Article 25) and the compulsory jurisdiction of the Court (Article 46) is welcomed. This Convention is directly applicable, and must be made widely known to the general public. The entry into force of this instrument should therefore be accompanied by an energetic training and information campaign, aimed in particular at judges, lawyers and law faculties. The Secretariat General of the Council of Europe and other European States should intensify their collaboration in such a campaign. Furthermore, Lithuania should consider ratifying the European Agreement relating to persons participating in proceedings of the European Commission and Court of Human Rights.

2. It is furthermore considered that Lithuania should ratify the United Nations Convention on the Elimination of All Forms of Racial Discrimination, the ILO Convention concerning Discrimination in Respect of Employment and Occupation, the UNESCO Convention against Discrimination in Education, the European Social Charter, the Framework Convention for the Protection of National Minorities, which it has already signed, and the Charter for Regional or Minority Languages. ECRI is aware of the fact that time is needed to prepare ratification of international legal instruments and strongly encourages the efforts of the Lithuanian authorities in this respect.

3. Many bilateral agreements signed with neighbouring States (the Russian Federation, Poland, Ukraine and Belarussia) deal with some of the problems connected with national, religious and other minorities in Lithuania.

B. Constitutional Provisions and law on citizenship

- *Constitutional provisions*

4. The Constitution of the Republic of Lithuania, adopted by referendum of 25 October 1992, stipulates that: "All individuals are equal before the law, the courts and other State bodies or their representatives. The rights of a person cannot be restricted nor privileges accorded on the grounds of sex, race, nationality, language, origin, social position, religion, beliefs or opinions." (Article 29). Citizens who are members of national minorities have the right to foster their language, culture and customs. Furthermore, constitutional provisions guarantee the right of national minorities to manage autonomously their cultural affairs, education, humanitarian aid and other fields. It is foreseen that the State should support them (Article 45).

5. Article 43 stipulates that churches and religious organisations are free to proselytize, to practise their religion and to maintain sanctuaries, institutions of humanitarian aid and establishments for the training of ecclesiastics.

⁴ A full overview of the legislation existing in Lithuania in the field of combating racism and intolerance is provided in the publication *CRI (95) 2 rev. prepared for ECRI by the Swiss Institute of Comparative Law (see bibliography)*

- ***Law on citizenship***

6. The law on citizenship of 3 November 1989 allowed persons having arrived in Lithuania during the Soviet period and having had their permanent residence in Lithuania for at least two years to become Lithuanian citizens if they declared their intention to do so within the two years following the entry into force of the law. At its so-called "zero-option", more than 90% of persons of non-Lithuanian ethnic origin chose Lithuanian citizenship.

7. The new law on citizenship, which entered into force in December 1991, is more restrictive. It requires 10 years residence in the country, a permanent job or another source of income, and sufficient knowledge of the Lithuanian language and Constitution. However, this might pose a problem for the Roma/Gypsies who did not opt for citizenship in time. It might be desirable to examine additional measures to facilitate the acquisition of citizenship for those Roma/Gypsies who are in this situation.

C. Criminal Law Provisions

8. Article 72 of the Criminal Code prohibits the limitation of the rights of citizens or the conferring of privileges on the grounds of ethnic or racial identity, as well as any act intended to incite to ethnic or racial disharmony or confrontations. Public instigation of the use of force against persons belonging to another ethnic group is also prohibited and incurs an additional penalty. In cases where such instigation may result in the death of a person or other serious consequences, the penalty is even harsher (up to 10 years imprisonment). However, given the principle of "nullum crimen sine lege", Article 72 does not appear sufficiently precise to cover the refusal of services intended for the public on the grounds of racial, ethnic or religious identity. This problem could also be covered in the framework of civil or administrative law.

D. Civil and administrative law provisions

9. Several administrative laws are aimed at combating racism and discrimination, and the civil law states that contractual arrangements must be settled without taking sex, race, nationality etc into consideration. This is the case, for example, in the fields of employment and housing. It would be desirable that the scope of this prohibition be more clearly defined and the penalties involved more precisely stated.

E. Specialised bodies

10. Lithuania has Parliamentary and administrative institutions which are responsible for fostering the protection of human rights (for example, Parliamentary Ombudsman, Department of Regional Affairs and Ethnic Minorities; Parliamentary Human Rights and Nationalities Commission; Division of National Minorities in the Ministry of Culture and Education and Nationalities Section in the National Heritage Inspectorate). However, it would seem that a body such as a specialised commission or a specialised Ombudsman, such as exists in some other countries, would better guarantee the interests of minority groups and of each individual belonging to these groups. Such a body might be given the task of safeguarding the rights and liberties of minority groups and their members.

II. POLICY ASPECTS

F. Education and training

11. Courses on human rights, the rights of minority groups and tolerance are taught in schools. Since minority groups are dispersed, special lessons are provided for children to learn to read and write in their mother tongue. In addition to schools for the Russian and Polish-speaking minorities, Jewish, German, Belorussian and Ukrainian schools have been opened. The large Russian minority seems satisfied with its situation. On the other hand, there is a discrepancy between the size of other minorities and the number of schools teaching in the mother tongue of those minorities⁵. Lithuania is congratulated for its willingness to support schools catering for minority groups. However, it is felt that the number of schools teaching in the above-mentioned minority languages could be increased and members of these minorities should be fully informed of the possibility of sending their children to these schools.

G. Employment

- *Languages*

12. According to the Law on the State Language, civil servants must have or acquire a sufficient knowledge of this language. It is normal that employees in the public sector are required to possess a sufficient knowledge of Lithuanian, the official language of the country. On 29 November 1990, Parliament passed a law stipulating that, if inhabited by a large population of a mother tongue other than Lithuanian, the requirements laid down in the law on the State language had to be fulfilled by 1 January 1995.

13. It is understandable that judicial and administrative procedures are carried out in principle in Lithuanian. However, in regions where a minority group constitutes the majority population, it would be desirable that the judges and civil servants have a sufficient knowledge of the minority language in order to be able to communicate directly with those appearing before them without the help of interpreters. ECRI cannot evaluate whether this proposal is already followed by the government in practice.

⁵ According to the publication "National Minorities in Lithuania" (see bibliography), there are approximately 316 000 persons of Russian nationality and 260 000 of Polish nationality living in Lithuania (respectively c. 8.4% and c. 7.0% of the population). As regards secondary schools, there are 85 secondary establishments teaching exclusively in Russian (c. 51 000 pupils) and 103 secondary establishments providing education in both Russian and Lithuanian (c. 25 000 pupils). This compares with 46 secondary establishments teaching exclusively in Polish (c. 4 500 pupils), and 80 secondary establishments providing education in both Polish and Lithuanian (c. 8 144 pupils).

H. Media

14. Some newspapers and periodicals are published in Polish and Russian, and the other minorities also have periodical publications. There are also television and radio broadcasts in minority languages, - not only in Russian and Polish but also in German, Belorussian, Tatar and Yiddish. However, these broadcasts still seem insufficient and some should be further developed. It is true that any improvement in the situation is necessarily dependent on the availability of resources.

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General data as supplied by national authorities

For reasons of consistency, ECRI, in its CBC reports, has, in this box, reproduced statistical data only from the replies of Governments to ECRI's questionnaire. The questionnaire was sent to the Lithuanian authorities on 13 July 1994.

ECRI accepts no responsibility for the data below.

Lithuanian: 3 018 900 (81.1%); Russian nationality: 316 600 (8.5%); Polish nationality: 261 500 (7.0%); Belorussian nationality: 57 000 (1.5%); Ukrainian nationality: 38 500 (1%); Jewish community: 6 500 (0.2%); Other: 25 000 (0.7%)

Between 1 January 1994 and 30 September 1994, 1248 persons out of a total of 1864 were permitted to immigrate to Lithuania.

A large majority of Lithuanians practice the Roman Catholic religion. Several other religions are also practised, such as the Old Faith (Russian), Russian Orthodox and Lutheran.

* *Population of Lithuania: 3 724 000 (estimation on 1 January 1994). This figure is taken from the Council of Europe publication "Recent demographic developments in Europe" (see bibliography)*

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This bibliography lists the main published sources consulted during the examination of the situation in Lithuania: it does not cover all the various sources of information (media, contacts within the country, national NGOs etc) which were utilised.

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