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RESTREINT UE



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NOTE

From : the General Secretariat
To : the Collective Evaluation Working Party
Subject : Analysis of information on human rights in Lithuania

Formal acquis

Lithuania has signed and ratified the ECHR and its protocols 1-8 and 11 and has ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and its two Additional Protocols. It has also ratified the Framework Convention for the Protection of National Minorities. Lithuania has not yet signed Protocol N° 12 to the European Convention on Human Rights¹.

According to UNHCR, provisions on detention before expulsion do not respect some principles of human rights. The courts decide whether the foreigner should be kept in detention while awaiting deportation. Detention itself is, however, based on ministerial instructions only, and there is no time limit for this loss of liberty. Detention of illegal immigrants has in some cases lasted up to 1.5 years. Gaps remain in the Refugee Law and the Law on Legal Status of Foreigners is being amended in new legislation. Lithuania is making efforts to align its asylum law to the *acquis*².

¹ However, an assessment of the conformity of Lithuanian legislation with this Protocol is being made and foreseen to be finalised in the third quarter of this year.

² A twinning project with Austria is beginning on 1 August 2002

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A new Criminal Code will come into force on 1 January 2003. Whether the amendments to the Criminal Law and Code of Criminal Procedure remedy the shortcomings, e.g. the need to prove one's innocence in certain cases, the severity of minimum sentences, the outmoded system of enforcement of sentences and the violation of basic rights, must be closely monitored.

A new draft Code of Execution of Punishments should have been completed in the first half of 2002.

In April 2002, Lithuania signed the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the UN Convention against transnational organised crime (ratified in March 2002).

As regards *minors*, the establishment of a Juvenile/Family Court is not currently being considered, due to economic reasons. Two main basic issues have not been considered yet: the prevention and protection of child victims/witnesses. These problems are crucial for the establishment of a well functioning youth policy. They are furthermore important to prevent an increase of youth criminality and to get the public to understand the main goals of an effective system of juvenile justice. The number of children without firm family support significantly increases youth criminality.

The Constitution provides for equality before the law and prohibited unequal treatment on the basis of language and ethnic origin. A ban on discrimination on the basis of race, ethnicity or language was also included in the 1989 Law on Ethnic Minorities as well as in legislation related to employment and education. Still, there is no comprehensive anti-discrimination legislation, as required by the EU Race Equality Directive. In addition, the existing legislation was not effectively enforced.

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Administrative capacity

Concerning the *training of police and the judiciary on human rights*, there is a 'police faculty' at the University of Law in Vilnius which runs courses for all ranks of the police. Police officers benefit from a wide range of training projects and programmes assisted by foreign specialists. Moreover, the UNHCR organises summer camps for law students and journalists on human rights in relation to Refugee law. In autumn 2002, a working group for judges on human rights in the area of detention will start.

Proper conditions of detention in prisons/pre-trial detention facilities

In 2002, the total number of detainees is 9.755¹, i.e. 354 detainees per 100.000 inhabitants. As a rule, Lithuanian prisons are old buildings in need of modernization. They are seriously overcrowded and both the conditions and the rights of prisoners should be improved. According to several reports, conditions in pre-trial detention facilities did not meet international standards. Conditions in prison facilities were also poor.

Allegedly, there is significant number of prisoners living in fear of physical violence and of being violated by stronger prisoners; allegations which seem to be supported by an examination of the injury registers at each establishment. The transfer of inmates who were in need of medical care outside the prison was not organised in a satisfactory way, and due to the lack of funds virtually no training or instruction took place in the prisons, including in juvenile penitentiaries. In one prison², there has been an outbreak of HIV (over 150 HIV infections due to drug abuse in prison).

However, as a result of financial assistance from and co-operation with international organisations, the situation improved in some prisons. Further, a reform of the penitentiary system is underway with the assistance of Sweden³. The problem is that despite both these plans and the high number of sentenced persons, state funding is being reduced. However, according to Lithuania, (good) progress has been made in improving the physical conditions in the penitentiary system as well as in setting up *inter alia* rehabilitation and educational schemes. Reconstruction of existing penitentiary institutions and constructions of new ones is going on. The staff selection and training system was reformed in 2000.

¹ compared to 12.205 in 2000

² Alytus prison

³ an assistance program on the aspect of probation

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The *Ombudsman* was established in 1994 and is provided by the Parliament. There are 3 different Ombudsmen; one for general complaints on the institutions, state officials, local civil servants; one for complaints related to equal opportunities for men and women and one for complaints concerning the rights of the children. The ombudsmen, who are civil servants, make an annual report and recommendations. The institution seems to be generally known by the public.

Implementing performance

Lithuania has ratified the ECHR in 1995 and individual claims can be brought to Court. In total, over 700 complaints have so far been brought to the Human Rights Court in Lithuania¹.

With regard to *pre-trial detention and the right to a fair trial*, one report on the situation in 2001 states that suspects were often held for years in pre-trial detention, and sometimes the prosecutors initiated legal actions against suspects without having any concrete evidence. In many cases, the prosecutors publicly labelled the defendants as perpetrators, thereby violating their right to be considered innocent before proven guilty and causing irreparable damage to their reputations.

During trials, basic procedural rights were not always respected. Although court hearings were officially public, the judges often exhorted those who showed up in the courtroom to leave, allegedly because their presence had a negative impact on the proceedings². By law the State was obliged to provide legal counsels to defendants, but since there were not enough public lawyers, private lawyers were required to provide a certain amount of counsel services (remuneration of which remained very low).

The courts also tended to hand out harsh sentences. According to the Lithuanian Human Rights Association, the average prison term was four years and six months, which was almost five times longer than the average prison term in Western European countries. Alternative forms of punishment were rarely imposed. Decisions in criminal cases normally were implemented effectively.

¹ 16 have been dealt with by the Court, Lithuania lost 10 cases, won 1 and 1 ended with arbitration – source: Lietuvos Rytas (27.06.02)

² in particular journalists in trials attracting much public attention

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Although the police are reported to have a good record regarding minorities, its image continues to be hampered by the existence of corruption. *Mistreatment by police* is forbidden by constitutional law, but the press regularly reports cases of excessive police actions. The Torture Prevention Committee reported¹ a number of cases of ill treatment/torture, abuse and violence against people in police detention/during arrest. The Ministry of Interior was originally reluctant to admit any wrongdoings but has for a few years been trying to improve the situation².

In cases of *police abuse* there is -apart from free reporting by the media- an internal disciplinary system of the police (annual report) and citizens can go to court or to the Human rights control Unit of the Parliament. Although surveys have been made, statistics are not available. However, between January 2000 and July 2001, no policeman was condemned for excessive actions.

Incidents have been reported since July 2001 in which *asylum-seekers* on the transit trains running from the mainland of the Russian Federation and Kaliningrad have been refused permission to disembark and prevented from applying for asylum at border guard stations in Kena, Kybartai and Vilnius by Lithuanian border guards. Also, some families have been separated. Potential asylum-seekers thus have been forced to continue their journey to Kaliningrad as they have been prevented from seeking asylum in Lithuania. A recent UNHCR Report mentions problems with the treatment of Chechen asylum seekers.

The new Refugee Law regulates detention of asylum seekers. However, this regulation suffers from shortcomings and the matter remains in fact poorly regulated, particularly concerning general detention of aliens before expulsion. The practice is to detain asylum seekers at the Foreigners' Registration Centre. As a rule, there are long delays in transfer of asylum seekers to appropriate accommodation and prolonged detention of minors.

¹ following their visit in 2000

² For instance, after the police actions against a pro-Tibetan demonstrator during a visit of the Chinese President in Vilnius on 17 June 2002, the Ministry of Interior formed a working group to investigate whether the police exceeded its powers.

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Particular problems with regard to detention were noted concerning a group of Afghan asylum seekers who arrived to Lithuania in August 2001 and have been detained since then in the Foreigners' Registration Centre in Pabrade. This case raised concerns with regard to discriminatory treatment of Afghan asylum seekers during the asylum procedure, transparency of these procedures and reception conditions of asylum seekers in the Centre. There is also lack of access to health care and social security system for persons with subsidiary protection status.

In recent years *trafficking in human beings*¹ has become an increasing problem: about 400 registered persons a year, most of whom are young women and underage². Organised criminal groups are involved in transporting women from Eastern countries (Ukraine, Russia, etc.) to Western Europe. Some of the key reasons are the high unemployment rate and the poor economic situation. Of all victims of human smuggling registered in Germany in 2000, 14% were Lithuanian citizens.

In 1999, the Lithuanian police registered 3 crimes of trafficking in human beings. Investigation in (only) 1 case was completed. However, many Lithuanian traffickers have been convicted in several other countries. Lithuanian authorities have failed to effectively investigate missing persons cases: they did not have a computerized system for searching for missing persons, and the police had no specialized unit dealing specifically with trafficking or missing persons. As a result, information on missing persons did not reach all police stations and border police posts, thus hampering efficient investigations. Furthermore, international agreements with other countries concerning the search for missing people abroad did not function properly. In the end, if a person was reported missing abroad, police did not launch any proceedings, nor did they crosscheck information on unidentified corpses with the lists of missing people, or data in mental hospitals and other similar institutions. According to a 2001 report, there were no social and legal protection schemes or appropriate assistance available for victims of crime, nor were there any national programmes for rehabilitation and reintegration of victims of forced prostitution and human trafficking or proper long-term prevention programmes for youths. The IOM has launched an information campaign in the Baltic States intended to raise awareness and prevent trade in women.

¹viz. International Helsinki Federation 2002 Report on Lithuania for more figures about the phenomenon

² These figures include not only the victims of trafficking but also persons who have left the country of their own accord to try their luck abroad without informing their families. However, not all missing or trafficked people showed up on the records.

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The situation of the *Roma minority* (+/ 3.000) remained difficult in 2001. The Government expressed renewed commitment to improving the conditions of the minority, and started implementing a new Roma Integration Programme, scheduled to run until 2004. Although the programme is a positive initiative, it reportedly suffers from two major drawbacks. Firstly, as the programme was elaborated without due consultation with Roma, it does not adequately encompass their priorities. Secondly, the programme fails to pay proper attention to the problem of Roma discrimination, which Roma representatives consider a crucial factor in the exclusion of Roma from employment, housing, education and health care. Some Roma representatives believe that the programme rather will help foster than combat negative stereotypes against Roma.

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Sources:

- ◆ Amnesty International Report 2002 on Lithuania
- ◆ Answers from the Member States to the Council Secretariat Questionnaire July 2002
- ◆ International Helsinki Federation for Human Rights Report 2002 on Lithuania
- ◆ Draft Common Position on Chapter 24, Co-operation in the fields of Justice and Home Affairs (Brussels, 5 December 2001 14945/01 LIMITE ELARG 370)

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