

**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX**



29 January 2007

**REPORT ON THE MEETING WITH REPRESENTATIVES
OF THE LITHUANIAN GOVERNMENT ON PROVISIONS
OF THE REVISED EUROPEAN SOCIAL CHARTER
NOT ACCEPTED BY LITHUANIA**

Vilnius, 27 October 2006

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Situation of Lithuania under the Revised Charter 1 January 2006

Ratifications

Lithuania ratified the Revised European Social Charter on 29/06/2001. Lithuania has accepted 86 of the 98 paragraphs of the Revised Charter.

Lithuania has not agreed to be bound by the “collective complaints” procedure.

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	2.6	2.7	3.1
3.2	3.3	3.4	4.1	4.2	4.3	4.4	4.5	5	6.1	6.2	6.3
6.4	7.1	7.2	7.3	7.4	7.5	7.6	7.7	7.8	7.9	7.10	8.1
8.2	8.3	8.4	8.5	9	10.1	10.2	10.3	10.4	10.5	11.1	11.2
11.3	12.1	12.2	12.3	12.4	13.1	13.2	13.3	13.4	14.1	14.2	15.1
15.2	15.3	16	17.1	17.2	18.1	18.2	18.3	18.4	19.1	19.2	19.3
19.4	19.5	19.6	19.7	19.8	19.9	19.10	19.11	19.12	20	21	22
23	24	25	26.1	26.2	27.1	27.2	27.3	28	29	30	31.1
31.2	31.3						= Accepted provisions				

Reports

Between 2003 and 2005, Lithuania submitted 3 reports on the application of the Revised Charter. The 4th report on non hard core provisions of the Revised Charter was received on 7 December 2006.

The 5th report will concern the provisions related to the theme ‘Employment, Training and Equal opportunities’ (Articles 1, 9, 10, 15, 18, 20, 24 and 25 of the Revised Charter). The 5th report should be submitted before 31 October 2007.

The Charter in domestic law

Article 138 of the Constitution of the Republic of Lithuania: “*International treaties ratified by the Seimas (Parliament) of the Republic of Lithuania shall be a constituent part of the legal system of the Republic of Lithuania*”.

Article 11 of the Law on Treaties: “*If a ratified treaty of the Republic of Lithuania which has entered into force establishes norms other than those established by the laws, other legal acts of the Republic of Lithuania which are in force at the moment of conclusion of the treaty or which entered into force after the entry into force of the treaty, the provisions of the treaty of the Republic of Lithuania shall prevail.*”

Context of the meeting

The meeting in Vilnius took place in the framework of the new procedure for examination of non-accepted provisions – Article 22 of the 1961 Social Charter – agreed by the Committee of Ministers in December 2002¹.

The Deputies decided that "states having ratified the Revised European Social Charter should report on the non-accepted provisions every five years after the date of ratification" and "invited the European Committee of Social Rights to arrange the practical presentation and examination of reports with the states concerned".

Following this decision, five years after ratification of the Revised Social Charter (and every five years thereafter), the European Committee of Social Rights would review non-accepted provisions with the countries concerned, with a view to securing a higher level of acceptance. Experience had shown that states tended to forget that selective acceptance of Charter provisions was meant to be a temporary phenomenon. The aim of the new procedure was therefore to require them to review the situation after five years and encourage them to accept more provisions.

In the case of Lithuania, the European Committee of Social Rights agreed with the Lithuanian authorities that it would meet, *inter alia*, representatives of various ministries in Vilnius on 27 October 2006.

¹ Committee of Ministers decision of 11 December 2002.

Friday 27 October 2006

PROGRAMME OF THE MEETING

OPENING REMARKS

- Dr. Vytautas Povilas ŽIŪKAS, Vice Minister of the Ministry of Social Security and Labour
- Ms Niamh CASEY, Secretariat of the European Social Charter
- H. E. Mr. Neris GERMANAS, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Lithuania to the Council of Europe
- Dr. Danutė JOČIENĖ, Judge of European Court of Human Rights

EXCHANGE OF VIEWS ON NON-ACCEPTED PROVISIONS

Article 12§2: Right to Social Security-maintaining the social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security

- Presentation of Charter case law by Mr L. LEPIK
- Presentation of Lithuanian situation by Ms K. VYŠNIAUSKAITĖ-RADINSKIENĖ – Senior specialist of International Law Division, Ministry of Social Security and Labour

Article 13§4: Right to Social and Medical Assistance – equal treatment of nationals of other parties

- Presentation of Charter case law by Mr. L. LEPIK
- Presentation of Lithuanian situation by Ms V. KAROSIENĖ - Chief Specialist of Equal Opportunities Division, and Ms A. GRATULEVIČIENĖ - Deputy Head of Family Support Division, Ministry of Social Security and Labour

Article 18§2: Right to Engage in a Gainful Occupation in the Territory of other Parties – simplification of existing formalities and reduction of dues and taxes

- Presentation of Charter case law by Mr. A SWIATKOWSKI
- Presentation of Lithuanian situation by Ms L. BEINORAVIČIENĖ - Head of Foreign Relations Division, Lithuanian Labour Exchange under the Ministry of Social Security and Labour

Article 18§3: Right to engage in a gainful occupation in the territory of other parties-liberalisation of regulations

- Presentation of Charter case law by Mr. A SWIATKOWSKI
- Presentation of Lithuanian situation by Ms L. BEINORAVIČIENĖ - Head of Foreign Relations Division, Lithuanian Labour Exchange under the Ministry of Social Security and Labour

Article 19§2: Right of Migrant Workers – measures to facilitate the departure journey and reception of migrant workers

- Presentation of Charter case law by Mr A. SWIATKOWSKI
- Presentation of Lithuanian situation by Ms R. KULIŠ, Foreigners Registration Centre

Article 19§4: Right of migrant workers – equal treatment of migrant workers in respect of employment

- Presentation of Charter case law by Mr A. SWIATKOWSKI,
- Presentation of Lithuanian situation by Mr R. LUKAŠEVIČIUS - Deputy Head of Labour Relations and Remuneration Division, Ministry of Social Security and Labour

Article 19§6: Right of Migrant workers – family reunion

- Presentation of Charter case law by Mr A. SWIATKOWSKI
- Presentation of Lithuanian situation by Ms R. ROMANČIKIENĖ - Chief Specialist of Law and International Division, Migration Department under the Ministry of the Interior

Article 19§8: Right of Migrant Workers – guarantees concerning deportation

- Presentation of Charter case law by Mr R. PRIETO-SUAREZ
- Presentation of Lithuanian situation by Ms R. ROMANČIKIENĖ - Chief Specialist of Law and International Division, Migration Department under the Ministry of the Interior

Article 19§12: Right of Migrant workers – teaching of migrant workers’ mother tongue

- Presentation of Charter case law by Mrs N. CASEY
- Presentation of Lithuanian situation by Ms O. ČEPULĖNIENĖ - Chief Specialist of Basic and Secondary Education Division, Ministry of Education and Science

Article 23: Right of Elderly Persons

- Presentation of Charter case law by Ms B. Karl
- Presentation of Lithuanian situation by Ms I. BUŠKUTĖ - Specialist of Pensions Division, Ministry of Social Security and Labour

Article 30: Right to Protection against Poverty and Social Exclusion

- Presentation of Charter case law by Mr. L. Leppik
- Presentation of Lithuanian situation by Ms G. JALINSKIENĖ - Deputy Director of Social Policy Analysis and Forecasting Department, Ministry of Social Security and Labour

Article 31§3: Right to Housing – accessible housing for those without adequate resources

- Presentation of Charter case law by Ms B. KARL
- Presentation of Lithuanian situation by Mr. V. JONAITIS - Deputy Director of Construction and Housing Department, Ministry of Social Security and Labour

CONCLUDING REMARKS

Executive summary

The purpose of the meeting was to review the provisions of the Revised Social Charter not accepted by Lithuania with a view to securing a higher level of acceptance of provisions of the Revised Charter by Lithuania (identifying provisions Lithuania could now accept or identifying obstacles to further ratifications and possible measures to overcome these barriers).

The meeting consisted of presentations by members of the delegation on the case law relating to the provisions which have not been accepted by Lithuania and representatives of the competent Ministries, who gave an explanation of the national situation with regard to the provisions in question.

The delegation had at its disposal a report prepared by the Lithuanian authorities on non-accepted provisions. This was supplemented by information presented during the meeting. Following the meeting the Lithuanian authorities provided additional written information on the situation in Lithuania for each provision, which has been included in this report and is taken into account in the conclusion as to whether acceptance is possible.

The exchange of view showed that the state of Lithuanian law and practice in fact permits acceptance of a number of additional provisions. The delegation concluded that immediate acceptance seemed possible in respect of two provisions. In respect of a further six provisions acceptance might also be possible in the medium term, and in respect of four provisions acceptance did not seem feasible at present.

It is recalled that an opinion expressed by the ECSR delegation that Lithuania could accept a provision does not imply that the situation will automatically be found to be in conformity with the revised Charter; it simply indicates that no major obstacles to ratification of and compliance with the provision have been found.

Provisions which could be immediately accepted by Lithuania

- 12§2 – Maintaining the social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security
- 19§12 – Teaching of migrant workers' mother tongue

Provisions which could be accepted by Lithuania in the medium term

- 13§4 – Right to urgent social and medical assistance
- 18§2 – Right to engage in a gainful occupation in the territory of other states parties-simplify existing formalities
- 18§3 – Right to engage in a gainful occupation the territory of other states parties-liberalising regulations
- 19§2 – Right of migrant workers-departure, journey and reception
- 19§6 – Right of migrant workers-family reunion
- 19§8 – Right of migrant workers-guarantees in case of deportation

Provisions which could not be accepted by Lithuania at present

19§4 – Right of migrant workers-equality regarding employment, right to organise and housing

23 – Rights of the elderly

30 – Right to protection against poverty and social exclusion

31§3 – Right to housing-accessible housing for those without adequate resources

Survey provision by provision

This part² has been drafted on the basis of the European Committee of Social Rights Case-Law Digest (document prepared by the Secretariat) as well as the report on non-accepted provisions prepared and submitted by the Ministry of Social Security and Labour of Lithuania. Reference is also made to the additional information and comments made during the meeting.

Article 12: The right to social security

With a view to ensuring the effective exercise of the right to social security, the Parties undertake:

2. to maintain the social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security;

ECSR case-law presented by Mr. LEPPIK

Article 12§2 obliges states to establish and maintain a social security system which is least equal to that required for ratification of the European Code of Social Security. The European Code of Social Security requires acceptance of a higher number of parts than ILO Convention No 102; six of the nine contingencies must be accepted although certain branches count for more than one part. Each contingency sets minimum levels of personal coverage and minimum levels of benefits.

Mr Leppik recalled that ratification of the Code is not a prerequisite for ratification of Art.12§2 of the Charter. Where a state has ratified the European Code of Social Security the Committee bases its conclusions under this paragraph on the Committee of Minister's Resolutions under the Code (which are in turn based on the assessment of the ILO Committee of Experts and the Committee of Experts on Standard-setting Instruments in the Social Security Field). Failure to comply with the European Code of Social Security will lead to a conclusion of non-conformity with Article 12§2, where the state is not in compliance with at least the minimum parts for ratification.

When the State concerned has not ratified the European Code of Social Security, the Committee makes its own assessment of the social security system in order to decide on the conformity with Article 12§2.

Situation in Lithuania

Lithuania has not yet ratified the European Code of Social Security and plans to do that in 2008. On 15 November 2005 Lithuania signed the European Code of Social Security of the year 1964. In 2001 Lithuania submitted so called "zero report" to the Council of Europe regarding the compliance of Lithuanian legal acts with the Code requirements for the period from July 2000 to June 2001. The Council of Europe in co-operation with the experts of the International Labour Organisation has submitted a conclusion regarding the so-called "zero report" of Lithuania stating that the Lithuanian social security in large scale complies with the requirements set by the Code and considers no obstacles for Lithuania to sign and ratify the European Code

² The report is drafted in the order the provisions were discussed during the meeting.

of Social Security. At the time Lithuania has complied with the requirements of the following parts:

- Part II (Medical care)
- Part III (Sickness benefit)
- Part V (Old-age benefit)

(Following the Code's requirement that was enough to sign and ratify the Code.)

In 2005 a repeat analysis was prepared regarding the compliance of legal acts of the Republic of Lithuania with the requirements of the Code under its all parts and covered the period from 1 January 2005 to 1 May 2005. On 17 June 2005 the Ministry of Social Security and Labour together with the Council of Europe arranged a seminar "Assessment of the Lithuanian Social Security in Preparation to Sign the European Code of Social Security". During the seminar, experts of the European Council and the International Labour Organisation evaluated positively the mentioned report. They have emphasised the progress achieved in the Lithuanian social security in comparison to the Lithuanian zero report and have encouraged to sign and ratify the European Code of Social Security.

To summarise the conclusions of the repeat report in 2005 regarding the compliance of legal acts of the Republic of Lithuania with the requirements set by the European Code of Social Security by all its parts and the assessment of international experts this is to say that legal acts of the Republic of Lithuania comply with the requirements set by the following parts of the European Code of Social Security:

- Part II (Medical care);
- Part III (Sickness benefit);
- Part IV (Unemployment benefit);
- Part V (Old-age benefit);
- Part VIII (Maternity benefit);
- Part IX (Invalidity benefit).

Pursuant to the requirements of the Code this is more than enough to ratify the Code. There are some irregularities with regard to requirements set by the following parts of the Code:

- Part VI (Employment injury benefit),
- Part VII (Family benefit),
- Part X (Survivors' benefit).

Conclusion

Taking into consideration the above-mentioned, and bearing in mind that ratification of the European Code of Social Security is not a prerequisite for ratification of Art.12§2 of the Revised Charter, this provision could be immediately accepted by Lithuania.

Article 13: The right to social and medical assistance

With a view to ensuring the effective exercise of the right to social and medical assistance, the Parties undertake:

4. to apply the provisions in paragraphs 1, 2 and 3 of this article on an equal footing with their nationals to nationals of other Contracting Parties lawfully within their territories, in accordance with their obligations under the European Convention on Social and Medical Assistance, signed at Paris on 11th December 1953.

ECSR case-law presented by Mr. LEPPIK

Article 13§4 grants foreign nationals entitlement to urgent social and medical assistance.

Governments not Parties to the European Convention on Social and Medical Assistance may ratify the Charter in respect of this paragraph provided that they grant to nationals of other Parties a treatment which is in conformity with the provisions of the said convention (Appendix).

The personal scope of Article 13§4 differs from that of other Charter provisions. The beneficiaries of this right to social and medical assistance are foreign nationals who are lawfully present in a particular country but do not have resident status and ones who are unlawfully present. By definition, no time limit can be set on the right to urgent or emergency assistance.

States are required to provide for those concerned to cope with an immediate state of need (accommodation, food, emergency care and clothing). They are not required to apply the guaranteed income arrangements under their social protection systems. While individuals' need must be sufficiently urgent and serious to entitle them to assistance under Article 13§4, this should not be interpreted too narrowly. The provision of urgent medical care must be governed by the individual's particular state of health.

Mr. Leppik recalled that the only link between Article 13§4 and the 1953 Convention concerns states' right to repatriate foreigners because they are in need of assistance, in accordance with the Convention's provisions on repatriation.

Situation in Lithuania

Social assistance consists of social benefits (including reimbursement for cost of house heating and hot and cold water) and social services. Social benefits are regulated by the Law on Child Benefits (Official Gazette, 18 May 2004, No IX-2237), Law on Social Cash Assistance for Low-Income Families (Single Residents) (1 July 2003, No. IX-1675), Law on State Assistance Benefits (29 November 1994, No. I-675) and Law on Assistance in Case of Death (Official Gazette, 23 December 1993, No I-348).

The Law on Child Benefits regulates the assistance to families raising children, and shall be applied to permanent citizens of the Republic of Lithuania (Article 1, paragraph 2). Paragraph 4 of Article 2 of this Law stipulates that „persons permanently residing in the Republic of Lithuania are the citizens of the Republic of Lithuania, the data of whom on the place of residence in the Republic of Lithuania (of those who do not have a place of residence – on the municipality of their place of

³ Conclusions XIII-4, Statement of Interpretation on Article 13, pp. 54-57.

residence) is included into the Residents' Register of the Republic of Lithuania, as well as persons without citizenship and aliens permanently residing in the Republic of Lithuania“.

The Law on Social Assistance in Cash to Low-Income Families (single Residents) is also applied to „permanent residents of the Republic of Lithuania“ (paragraph 2 of Article 1). Pursuant to paragraph 3 of Article 1 of this Law, „persons permanently residing in the Republic of Lithuania are the citizens of the Republic of Lithuania, the data of whom on the place of residence in the Republic of Lithuania (of those who do not have a place of residence – on the municipality of their place of residence) is included into the residents' register of the Republic of Lithuania, as well as aliens permanently residing in the Republic of Lithuania“.

Pursuant to Article 1 of the Law on Assistance in Case of Death, the funeral grant is entitled in case of death of:

- a citizen of the Republic of Lithuania, whose permanent place of residence is in the Republic of Lithuania;
- an alien in Lithuania (a person having foreign citizenship or a stateless person), having a permit to reside permanently in the Republic of Lithuania;
- a person in Lithuania, having the status of refugee pursuant to the procedure established in the laws of the Republic of Lithuania.

Social assistance to pupils shall be granted irrespective of whether a family permanently or temporarily resides in Lithuania. The Law on Social Assistance to Pupils (13 June 2006, No X-686) regulates provision of free meals to school pupils from low-income families, as well as schooling materials before the beginning of a new school year. This assistance can be provided to children attending public and municipal comprehensive schools, vocational schools, pre-school education institutions and other institutions appropriate for education of children according to comprehensive or pre-school education programmes, except adult education programmes.

According to Article 5 of the new Law on Social Services (19 January 2006 (No. X-493) persons entitled to the right to get social services are:

- 1) citizens of the Republic of Lithuania;
- 2) aliens, also persons without citizenship, who have permits for temporary or permanent residence in the Republic of Lithuania;
- 3) other persons in the cases defined by International agreements of Republic of Lithuania.

Article 25 of the Law on Legal Status of Aliens of the Republic of Lithuania (Official Gazette, 2004, No 73-2539) states that aliens may be issued permits for temporary residence in the Republic of Lithuania and permits for permanent residence in the Republic of Lithuania. The Law on Legal Status of Aliens and other legal acts regulate the procedure and conditions for issuance, change and revocation of the permits for temporary and permanent residence in the Republic of Lithuania. This is to note that some laws and other legal acts of Lithuania regulating the provision of social and medical assistance apply to the citizens of the Republic of Lithuania, persons without citizenship and nationals of foreign countries who *permanently* live in the Republic of Lithuania. However, the foreigners temporarily residing in the Republic of Lithuania can not still use the conditions of social assistance defined by the said acts.

Following the Law on Legal Status of Aliens permit to an alien for permanent residence in the Republic of Lithuania shall be issued if the alien has been living in the Republic of Lithuania for a continuous period of the last 5 years holding a temporary residence permit (article 53 par. 1 paragraph 8). This period may be reduced by one year if a foreigner has learned the state language and has passed the examination of the state language (article 53 par. 6).

Pursuant to the description of procedure for providing assistance by the Lithuanian state for integration of aliens who have received asylum in the Republic of Lithuania approved by the Order No A1-238 of 21 October 2004 of the Minister of Social Security and Labour of the Republic of Lithuania (Official Gazette, 2004, No 157-5741; 2006, No5-167) the state assistance for social integration is provided to the aliens who have received asylum in Lithuania.

Assistance for social integration of aliens who have received asylum in Lithuania shall be provided in the Refugees Reception Centre (RRC) and later in the municipal territory. The assistance shall be provided from the national budgetary funds allocated for the maintenance of this centre and later continued in the municipal territory from the state budgetary funds allocated for the assistance for integration.

RRC provides the aliens with the necessary social, health care and legal services, the courses in Lithuanian language and Lithuania society awareness are organised as well as the courses in vocational training and re-qualification, and job seeking.

During the period of integration in municipalities the following financial support is allocated for the aliens who received asylum: lump-sum benefit for settling; rent of residential premises; for payment of utility services; monetary benefit for primary commodities; learning of Lithuanian language; benefit for school-age children to acquire primary school goods; for the development of pre-school children in the pre-school education establishments; benefits to children under 3 years old if they do not attend pre-school education establishments; child birth benefit (lump sum); and health insurance.

The assistance in the RRC is provided up to 6 months. The assistance for integration in the municipal territory shall be provided up to 12 months. The integration period may be prolonged for vulnerable groups of aliens who have received asylum. Total period for integration in the RRC and municipal territory may not exceed 60 months, i.e. 5 years. After 5-year period aliens shall acquire the right to receive a permit for permanent residence in Lithuania and at the same acquire the right to social support regulated by laws of the Republic of Lithuania applicable to the nationals and permanent residents of the Republic of Lithuania.

Health care to the aliens who have received asylum during the integration period shall be provided following article 47 of the Law on Health Care System of the Republic of Lithuania (Official Gazette, 1994, No 63-1231), the Law on Health Insurance of the Republic of Lithuania (Official Gazette, 2002, No 123-5512), the Law on Health Care Institutions No I-1367, 6 June 1996 (Official Gazette, 1998, No 109-2995); the Law on Legal Status of Aliens of the Republic of Lithuania (Official Gazette, 2004, No 73-2539); the Resolution No 230 of 1 March 2005 of the Government of the Republic of Lithuania Regarding the Approval of Description of the Procedure of Aliens' Health Insurance (Official Gazette, 2005, No31-993), the Order No V-208 of 8 April 2004 of the Minister of Health of the Republic of Lithuania Regarding the Approval of Procedure and Scope for Providing Primary Medical Aid and Necessary Medical Aid Services (Official Gazette, 2004, No 55-1915) and other

legal acts of the Republic of Lithuania seeking to ensure the provision of individual and public health care services.

Following the Law on Health Insurance of the Republic of Lithuania (Official Gazette, 2002, No 123-5512) compulsory health insurance is provided to the citizens of the Republic of Lithuania and aliens with permanent residence in the Republic of Lithuania, to the temporarily residing aliens who have a legal job therein and to their under-age family members, also unaccompanied foreign minors, the aliens who have received supplementary and temporary protection in the Republic of Lithuania (persons under 18 year old who have been diagnosed disease or state of organism included in the list approved by the Ministry of Health Care; single parents bringing up underage children, women during pregnancy within the period of 70 days (after 28 weeks of pregnancy and more) before giving a birth and 56 days after the parturition, persons who are of old pension age set by the laws of the Republic of Lithuania).

Aliens who gave received asylum during the integration period at the Refugees Reception Centre are insured by compulsory health insurance from the funds allocated for the maintenance of the Refugees Reception Centre and during the integration period in the municipal territory from the support allocated for the integration from the national budgetary funds. Health care to the aliens who have lodged an application to grant the status of a refugee shall be paid from the state budgetary funds in the manner laid down by the Government of the Republic of Lithuania or its authorised institution.

Pursuant to Article 4 of the Order No V-208 of the Ministry of Health of the Republic of Lithuania of 8 April 2004 "On the Approval of the Procedure and Scope of the Mandatory Medical Aid and Provision of Mandatory Medical Aid" (Official Gazette, 2004, No 55-1915), the mandatory (the first and immediate) aid shall be provided in the Lithuanian personal health care institutions to unexceptionally all patients without an exception, and pursuant to Article 6 of this Order, each personal health care institution shall ensure (provide and organise) the mandatory medical aid within their competence.

The European Council Regulations No 1408/71 and 574/72, providing for a guarantee of the mandatory health care to the citizens of the EU, are also applied. In pursuance of these regulations and according to forms E125 „Actual Treatment Costs and Accounting“, mandatory health care services were provided to persons of other EU countries: in 2004 – to 100 patients, in 2005 – to 235 patients and during the first half of 2006 – to 101 patient.

Conclusion

Although mandatory medical aid and social assistance are provided to some extent under Lithuanian legislation, there is no equal treatment for foreigners, as required by Article 13. Moreover, emergency aid is not specifically mentioned in legislation. It was therefore considered that further clarification was necessary prior to ratification of this provision.

Article 18 – The right to engage in a gainful occupation in the territory of other Parties

With a view to ensuring the effecting exercise of the right to engage in a gainful occupation in the territory of any other country, the Parties undertake:

2. to simplify existing formalities and to reduce or abolish chancery dues and other charges payable by foreign workers or their employers;

ECSR case-law presented by Mr. SWIATKOWSKI

Formalities and dues and other charges are one of the aspects of regulations governing the employment of workers covered by paragraph 3 but are dealt with specifically under this provision.

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With regard to the formalities to be completed, conformity with Article 18§2 presupposes the possibility of completing such formalities in the country of destination as well as in the country of origin and obtaining the residence and work permits at the same time and through a single application. It also implies that the documents required (residence/work permits) will be delivered within a reasonable time.

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Chancery dues and other charges for the permits in question must not be excessive and, in any event, must not exceed the administrative cost incurred in issuing them.

Situation in Lithuania

Following paragraph 2 of article 7 of the Law on Legal Status of Aliens of the Republic of Lithuania an alien shall be admitted to the Republic of Lithuania if he/she has a valid visa to the Republic of Lithuania unless the international treaties of the Republic of Lithuania, legal acts of the European Union or the Government of the Republic of Lithuania establish otherwise or if he has a valid permit for temporary residence in the Republic of Lithuania or permit for permanent residence in the Republic of Lithuania. (Statistical data is provided in the Annex 1).

Foreign countries whose citizens may arrive to the Republic of Lithuania without visas:

1. Ireland
2. Principality of Andorra;
3. Republic of Argentina;
4. Commonwealth of Australia;
5. Republic of Austria;
6. Kingdom of Belgium;
7. Republic of Bolivia;
8. Federative Republic of Brazil;
9. Brunei Darussalam;
10. Republic of Bulgaria;
11. Czech Republic;
12. Republic of Chile;
13. Kingdom of Denmark;
14. Republic of Estonia;
15. Republic of Greece;
16. Republic of Guatemala;
17. Republic of Honduras;
18. Republic of Iceland;

19. Kingdom of Spain;
20. Republic of Italy;
21. State of Israel;
22. Japan;
23. The United Kingdom of Great Britain and North Ireland;
24. The United States of America;
25. Canada;
26. Hong Kong Special Administrative Region of the People's Republic of China;
27. Macau Special Administrative Region of the People's Republic of China;
28. Republic of Cyprus;
29. Republic of Costa Rica;
30. Republic of Croatia;
31. Republic of Latvia;
32. Republic of Poland;
33. Principality of Liechtenstein;
34. Grand Duchy of Luxembourg;
35. Federation of Malaysia;
36. Republic of Malta;
37. United Mexican States;
38. Principality of Monaco;
39. New Zealand;
40. Republic of Nicaragua;
41. Kingdom of Netherlands;
42. Kingdom of Norway;
43. Republic of Panama;
44. Republic of Paraguay;
45. Republic of South Korea;
46. Portuguese Republic;
47. Republic of France;
48. Romania;
49. Republic of El Salvador;
50. Republic of San Marino;
51. Republic of Singapore;
52. Republic of Slovakia;
53. Republic of Slovenia;
54. Republic of Finland;
55. Kingdom of Sweden;
56. Confederation of Switzerland;
57. Oriental Republic of Uruguay;
58. The Holy See /State of the Vatican City;
59. Bolivarian Republic of Venezuela;
60. Republic of Hungary;
61. Federal Republic of Germany.

Pursuant to the list of state fees and charges and their amounts approved by the Resolution No. 1458 of 15 December 2000 of the Government of the Republic of Lithuania aliens shall pay the following state fee for issuing of visas:

1. for the issuing of short-term visas: single entry – 40 litas (about 12 euro), multiple-entry – 80 litas (about 23 euro);
2. for issuing transit visa: single-entry – 20 litas (about 6 euro), multiple-entry group (per person) – 20 litas (about 6 euro).

The mentioned state fees are reduced by 100 % to the aliens who have submitted the documents proving the right to preservation of citizenship of the Republic of Lithuania, family members of the European Union member state and European free trade association member states, foreigners with diplomatic or service passport, and persons who are given legal status of a victim of occupation - repressed person following article 6 of the Law on Legal Status of Aliens of the Republic of Lithuania as victims of 1939–1990 occupation.

Aliens for issuing of long-term visa shall pay the following state fees: for single-entry – 207 litas (about 60 euro), for multiple-entry – 259 litas (about 75 euro) and for extension of visa in the Republic of Lithuania – 61 litas (18 euro).

On the basis of international treaties the state fee for visa may be reduced also the procedure for issuing of visas may be simplified. For example, following the agreement between the Government of the Republic of Lithuania and the Ukraine Cabinet of Ministers regarding the travel of citizens of Ukraine, the diplomatic missions and consular posts of the Republic of Lithuania shall issue visas to the Republic of Lithuania with the right to be in the Republic of Lithuania up to one year and up to 180 days per one year but not longer than 90 days per 6 months without taking any consular fees and any compensation for the expenses incurred and without asking to present an invitation. In addition, the diplomatic missions and consular posts of the Republic of Lithuania issue single-entry visas to the Republic of Lithuania to the citizens of Ukraine following the simplified procedure, which provides for the issuing of visas in the absence of an applicant.

Following article 50 of the Law on Legal Status of Aliens of the Republic of Lithuania a temporary residence permit to an alien may be revoked if the alien's work permit in the Republic of Lithuania has been revoked or an employment contract with the alien has been terminated or the alien has discontinued his studies, participation in internship, in-service training, or professional training programme and other cases.

After the temporary residence permit in the Republic of Lithuania is revoked following article 124 of the said law the alien must depart from the Republic of Lithuania.

Following the Description of the Conditions and Procedure for Issuing Work Permit to Aliens approved by the Order No A1-118 of 24 April 2006 by the Minister of Social Security and Labour of the Republic of Lithuania an employer wishing to employ an alien must lodge an application of a set form to the local labour exchange to issue a work permit in the Republic of Lithuania to the alien. The following must be attached to an application:

1. copy of a registration certificate of legal entity;
2. copy of passport of a citizen of foreign state or document equal to it for the entry to a foreign state and recognised in the Republic of Lithuania;
3. copy of a document proving the permanent place of residence in the foreign country;
4. copy of foreigner's diploma or another document proving the personal qualification legalised or approved by Apostille;
5. certificate issued by a competent institution about the recognition of professional qualification if the profession is regulated in the Republic of Lithuania. Information about the professions regulated in the Republic of Lithuania is provided in the Studies Quality Assessment Centre;
6. detail description of foreigner's future job in the Republic of Lithuania.

The Lithuanian Labour Exchange issues a work permit with regard to the international obligations of the Republic of Lithuania and labour market needs and on

the basis of the conclusion provided by local labour exchange. Work permit in the Republic of Lithuania is issued up to 2 years and an alien must obtain it before the entry to the Republic of Lithuania. If an alien arrives for season work a work permit shall be issued up to 6 months per year starting from the first day of his arrival to the Republic of Lithuania. Foreigner who comes to work as a trainee or practitioner for the period longer than three months a work permit shall be issued for one year.

In any case the validity of a work permit including its extension may not exceed 2 years. To extend the validity of a work permit an employer who wants to employ foreigner or an enterprise employing an employee who is temporarily sent for work to the Republic of Lithuania must at least 2 months prior to its expiry submit an application of a set form to extend the validity of a work permit to the local labour exchange.

Pursuant to article 4 of the Law on Fees and Charges of the Republic of Lithuania, the Government of the Republic of Lithuania establishes the fees for documents issued for the arrival of aliens as well as for their employment. The fee is not big, e.g. for the issuing of a work permit it amounts to LTL 110 (about 32 euro) per year.

Notwithstanding the low rate of state fees in Lithuania for the issuance of work permit (LTL 110 per year), there are no quotas for the employment of foreign nationals established, the validity period for the work permit may be extended in case of production necessity, however, the existing formalities to employees-foreigners and their employers in Lithuania do not meet the criteria of simplified formalities.

The provisions of this paragraph may not meet the position of the Republic of Lithuania stated with regard to the EU legal acts (Legal migration policy plan and Green Book regarding the EU position on the issues of economic migration management). Lithuania has several times expressed its positive position for applying the *Community preference* principle. Following this principle the admission of third-country nationals to the EU labour market must be possible only in case if a member state has a specific vacant job that may not be occupied by the nationals of that or another EU member state who legally live in the EU member states. The Republic of Lithuania, being a European Union member state, keeps to the following principle: to admit as many economic migrants as necessary considering the internal labour market needs. Economic immigration of third-country nationals should not promote the economic emigration of the member state nationals.

We also do not suppose that employee-migrants should be applied the facilitated procedure for issuing of temporary residence permit because the economic migration in principle is and should remain of a temporary nature.

Conclusion

In view of current requirements concerning formalities to be completed and fees to be paid before entry into the country, this provision could possibly be accepted by Lithuania subject to further analysis.

Article 18 – The right to engage in a gainful occupation in the territory of other Parties

With a view to ensuring the effecting exercise of the right to engage in a gainful occupation in the territory of any other country, the Parties undertake:

3. to liberalise, individually or collectively, regulations governing the employment of foreign workers;

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Under Article 18§3, States are required to liberalise periodically the regulations governing the employment of foreign workers in the following areas:

- Access to the national labour market :
The conditions laid down for access by foreign workers to the national labour market must not be excessively restrictive, in particular with regard to the geographical area in which the occupation can be carried out and the requirements to be met.
- Right to engage in an occupation:
A person who has been legally resident for a given length of time on the territory of another Party should be able to enjoy the same rights as nationals of that country. ~~The restrictions initially imposed with regard to access to employment (which can be accepted only if they are not excessive) must therefore be gradually lifted.~~ Deleted:
- Rights in the event of loss of employment:
Loss of employment must not lead to the cancellation of the residence permit, thereby obliging the worker to leave the country as soon as possible. ~~In such cases, Article 18 requires extension of the validity of the residence permit to provide sufficient time for a new job to be found.~~ Deleted:

Situation in Lithuania

Law on Legal Status of Aliens of the Republic of Lithuania provides that an alien must obtain a work permit in the Republic of Lithuania before his entry to the Republic of Lithuania. Following this law a work permit to an alien may be issued if there is no specialist in Lithuania meeting the qualification requirements set by employer. In addition, work permit shall be issued to an alien taking into account the needs of the Lithuanian labour market. Alien is not permitted to fulfil any other work function (certain profession, qualification, speciality, job or be in certain position) except the ones for which a work permit is issued. At the expiry of a work permit an alien must depart from the Republic of Lithuania. The conditions and procedure for issuing work permits to aliens shall be set by the Minister of Social Security and Labour. A work permit shall be issued to an alien and revoked by the Lithuanian Labour Exchange under the Ministry of Social Security and Labour of the Republic of Lithuania.

Following article 58 of the Law on Legal Status of Aliens of the Republic of Lithuania (No IX-2206 of 29 April 2004) a foreigner shall be relieved from the obligation to obtain a work permit if:

1. the alien has retained his right to citizenship of the Republic of Lithuania in the manner prescribed by the Republic of Lithuania Law on Citizenship;
2. the alien is a person of Lithuanian descent;

3. in case of family reunification;
4. the alien has been put under guardianship/curatorship or he has been appointed as guardian/curator;
5. the alien has been granted subsidiary protection in the manner prescribed by this Law;
6. the alien has been granted temporary protection in the manner prescribed by this Law;
7. has a permanent residence permit.

Following paragraph 8 of the Order No A1-118 of 24 April 2006 On the Description of the Conditions and Procedure for Issuing Work Permit to Aliens approved by the Minister of Social Security and Labour of the Republic of Lithuania aliens are not requested to obtain work permit if he/she:

8.1. registers an enterprise, agency or organisation in the Republic of Lithuania as the owner or co-owner who owns at least 10% of the statutory capital or voting rights and his stay in the Republic of Lithuania is necessary seeking to attain the aims of the enterprise, agency, organisation and carrying out other activities;

8.2. is the head or the authorised representative of the enterprise, agency or organisation registered in the Republic of Lithuania, if the principal goal of his entry is work at the enterprise, agency or organisation;

8.3. arrives to the Republic of Lithuania to settle the matters related to the negotiations regarding contract conclusion and its implementation, personnel training, commercial establishment, equipment installation and similar activity for not longer than three months per year;

8.4. is a citizen of another state who is legally employed in the member state of the European Union and is sent by an employer for temporary work to the Republic of Lithuania and has a certificate of form E101 issued by a competent institution of a member state of the European Union;

8.5. works in the enterprise of the state with which the European Union has concluded bilateral agreement or multilateral international agreement within the framework of the World Trade Organisation regulating the conditions for providing the services by natural persons and whose commitments are valid for Lithuania and has entered into a contract to provide services in the Republic of Lithuania. These persons are not requested to obtain a work permit as much as it is regulated by the commitments of Lithuania of the said European Union bilateral and multilateral agreements (by areas or quotas of the provision of services);

8.6. provides services in the state with which the European Union has concluded a bilateral or multilateral international agreement within the framework of the World Trade Organisation regulating the conditions for providing services by natural persons whose commitments are valid for Lithuania and has concluded a contract for provide such services in the Republic of Lithuania. These persons are not requested to obtain a work permit as much as it is regulated by the commitments of Lithuania of the said European Union bilateral and multilateral agreements (by areas or quotas of the provision of services);

8.7. wishes to get employment so as to be able to execute common governmental programmes with foreign countries;

8.8. is a professional sportsman or coach who has concluded sports activity contract (article 30 of the Law on Physical Culture and Sport of the Republic of Lithuania (Official Gazette, 1996, No 9-215);

8.9. comes to the Republic of Lithuania to execute scientific researches under labour contract or undertake pedagogical work in the education and study institutions;

8.10. is a crew member of the ship sailing with the flag of the Republic of Lithuania who has a long-term visa (article 16 of the Law on Legal Status of Aliens of the Republic of Lithuania);

8.11. comes as a trainee or practitioner for not longer than three months per year;

8.12. is a member of traditional or recognised by the State religious association (community) of Lithuania having a mediation document issued by the management staff of an appropriate religious community, is a clergyman of another religious community or society that has a status of a legal entity in the Republic of Lithuania having a mediation document issued by management staff of an appropriate religious community or association and is maintained from the funds of the religious community during the period of the religious activity in the Republic of Lithuania (article 17 of the Law on Religious Communities and Associations of the Republic of Lithuania (Official Gazette, 1995, No 89-1985);

8.13. is a long-term resident of a member state of the European Union (Council directive 2003/109/EC concerning the status of third-country nationals who are long-term residents) with a work permit in the Republic of Lithuania and permit of temporary residence and has worked and lived 1 year and who wants to work under employment contract;

8.14. is a representative of charity organisation from another state entering the Republic of Lithuania with a purpose to provide charity;

8.15. is a participant of the voluntary programmes supported by the European Union and member states.

Following the said Law an employer may conclude employment contract only with an alien who has a work permit except the afore-mentioned cases (paragraph 2 of article 62).

Minister of Social Security and Labour shall lay down the conditions in the presence of which an alien is not requested to obtain a work permit. Following article 31 of the Description of the Conditions and Procedure for Issuing Work Permit to Foreigners approved by the Order No A1-118 of 24 April 2006 by the Minister of Social Security and Labour of the Republic of Lithuania, an alien is not permitted to fulfil another work function (certain profession, qualification, speciality, job or be in certain position) except those for which a permit has been issued.

Work pay to an alien for the same job may not be lower than that paid to a resident of the Republic of Lithuania.

Labour contract shall be concluded with an alien in writing in the manner prescribed by laws of the Republic of Lithuania, in Lithuanian and other language known to a foreigner.

The Minister of Social Security and Labour together with the Minister of Interior Affairs shall set the conditions and procedure when a work permit to a foreigner may be issued while being in Lithuania. An alien must obtain a work permit before his entry to the Republic of Lithuania.

Following article 63 of the law alien's work permit shall be revoked if:

1. if the permit has been obtained by fraud;
2. upon the termination of an employment contract;
3. in case of termination of employment relations with the employer in a foreign country, who had placed the alien for temporary employment in the Republic of Lithuania;
4. upon the revocation of the alien's temporary residence permit.

Following paragraph 4 of paragraph 1 of article 40 of the Law on Legal Status of Aliens of the Republic of Lithuania an alien intending to work in the Republic of Lithuania may be issued a permit for temporary residence. Following paragraph 3 of article 40 of the said Law an application lodged by an alien to issue a permit for temporary residence may be investigated together with an application to issue a work permit. Following paragraph 5 of article 40 of the said Law an alien holding a permit for temporary residence in the case of changed circumstances deciding upon the grounds for issuing this permit must obtain a new permit for temporary residence. A foreigner holding a new work permit must also obtain a new permit for temporary residence.

Conclusion

Despite a certain degree of liberalisation in respect of the entry of foreigners to the Lithuanian labour market, some of the requirements under Article 18§3 are lacking, for example, the possibility of an extension of the work/residence permit in the event of job loss, and it was therefore considered that this provision could possibly be accepted by Lithuania subject to further analysis.

Article 19 – The right of migrant workers and their families to protection and assistance

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:

2. to adopt appropriate measures within their own jurisdiction to facilitate the departure, journey and reception of such workers and their families, and to provide, within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey;

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This paragraph obliges States to adopt special measures for the benefit of migrant workers, beyond those which are provided for nationals to facilitate their departure, journey and reception.

Reception must include not only assistance with regard to placement and integration in the workplace, but also assistance in overcoming problems, such as short-term accommodation, illness, shortage of money and adequate health measures.

Situation in Lithuania

Article 49 of the Law on Health System No I-552, 19 July 1994 (Official Gazette, 1998, No 112-3099) lays down the procedure for providing individual health care services guaranteed by the State (free of charge) and the right of a patient to choose acceptable medical institution and specialist.

The Law amending the Law on Health Insurance of the Republic of Lithuania (Official Gazette, 1996, No 55-1287, 2002, No 123-5512) regulates the basics for reimbursement of individual health care services, medicines and medical aid products to persons from the Compulsory Health Insurance Fund. Previously mentioned health promotion services to a person are reimbursed from the Compulsory Health Insurance Fund if the person holds compulsory health insurance. Thus, all persons legally employed in the Republic of Lithuania shall have the right to use the aforementioned individual health care services guaranteed by the State (free), to choose an acceptable medical institution and specialist, to use the health care services, and receive reimbursement for medicinal products and medical aid products.

Good hygienic conditions and requirements for health safety are ensured pursuant to the Resolution No 103 of 29 January 2001 of the Government of the Republic of Lithuania Regarding the Approval of the Procedure and Conditions for Temporary Accommodation of Aliens in the Foreigners Registration Centre (Official Gazette, 2001, No 11-322, actual edition from 8 April 2006) and the Order No V-836 of 28 October 2005 of the Minister of Health of the Republic of Lithuania Regarding the Lithuanian Hygienic Norm HN 61:2005 „Foreigners’ Registration Centre. Hygienic Norms and Rules“ (Official Gazette, 2005, No 135-4863).

This hygiene norm applies to all newly constructed, reconstructed, repaired and maintained constructions of the Foreigners Registration Centre of the foreigners’ temporary accommodation of the aliens who have illegally entered the Republic of Lithuania or illegally being in the Republic of Lithuania and have requested refugee’s status and this norm is binding to the natural and legal entities, construction process

participants, Foreigners' Registration Centre (founders and heads, institutions performing the safety control of the institution).

In the meaning of this Charter the Order No V-188/A1-84/[SAK-48J issued on 23 March 2005 by the Minister of Health Care of the Republic of Lithuania, the Minister of Social Security and Labour of the Republic of Lithuania and the Minister of Education and Science of the Republic of Lithuania "Regarding the Approval of the Description of the Criteria and Procedure for Defining the Level of Disablement" (Official Gazette, 2005, No 39-1277) is also important to all persons residing in Lithuania. The level of disablement is defined for persons until 18 years old, except the persons who are (were) insured by the state social insurance.

Article 30 of the Law of the Republic of Lithuania on the Legal Status of Aliens stipulates that the spouse of an alien who is not an EU Member State national or a person who has concluded a partnership agreement, children (adopted children) below the age of 18 years, including the unmarried and dependent children (adopted children) below the age of 18 years of the couple or a person who has concluded a partnership agreement, who remained residing in a foreign country, may enter into the Republic of Lithuania for residence with the alien who has been lawfully residing in the Republic of Lithuania for a continuous period of at least 2 years; aliens who submitted applications for refugee in the Republic of Lithuania shall not be entitled to family reunification pending the determination of the issue regarding the granting of refugee; neither shall the right to family reunification be accorded to the aliens who have been granted subsidiary or temporary protection in the Republic of Lithuania.

Therefore an employed alien, a work permit to whom can be issued only for the period of two years (temporary residence permit is also issued for the same period), shall not be entitled currently to family reunification, since after the expiry of a 2-year term, he/she has to depart from the Republic of Lithuania.

The Law No IX-2206 of the Republic of Lithuania On the Legal Status of Aliens (Official Gazette, 2004, 73-2539) stipulates that:

- nationals of the EU Members States and members of their families intending to work in the Republic of Lithuania, are relieved from the obligation to obtain a work permit.
- an alien intending to work in the Republic of Lithuania, shall obtain a work permit before entering the Republic of Lithuania. A work permit shall be issued to an alien for a period of up to two years specifying the job (position) and enterprise, agency or organisation where an alien will be employed. A work permit shall be issued to an alien taking into account the needs of the labour market of the Republic of Lithuania.

Pursuant to the Law of the Republic of Lithuania On Legal Status of Aliens, an employer may conclude an employment agreement only with an alien who holds a valid work permit. An alien's labour relations shall be regulated by the Labour Code of the Republic of Lithuania, the above Law and legal acts of the European Union.

An alien's work permit shall be revoked:

- 1) if the permit has been obtained by fraud;
- 2) upon the termination of an employment contract with the alien;
- 3) in case of termination of employment relations with the employer in a foreign country who had placed the alien for temporary employment in the Republic of Lithuania.

4) upon the revocation of the alien's temporary residence permit.

An alien shall not perform other work function (certain profession, qualification, speciality, job or take a certain position) than that, for which work permit has been issued.

The description of terms and the procedure of issuing work permits to aliens, approved by the Order No A1-118 of the Minister of Social Security and Labour of 24 April 2006 (Official Gazette, 2006, No 46-1669), regulates the terms for issuing, extension of validity, refusal to issue or extend validity of a work permit in the Republic of Lithuania to aliens, as well as the terms under which the alien are relieved from the obligation to obtain a work permit. A temporary residence permit may be issued or *replaced* to an alien if:

- 1) the alien has retained his right to citizenship of the Republic of Lithuania in the manner prescribed by the Law on Citizenship of the Republic of Lithuania;
- 2) an alien is a person of Lithuanian descent;
- 3) in case of family reunification;
- 4) an alien intends to take up employment in the Republic of Lithuania;
- 5) an alien intends to engage in lawful activities in the Republic of Lithuania;
- 6) an alien intends to get education, to study at an educational establishment, to participate in an internship programme, to undergo in-service training, to upgrade qualification skills and participate in vocational training.
- 7) an alien has been granted guardianship (curatorship) or has been appointed guardian/curator;
- 8) an alien may not be expelled from the Republic of Lithuania or his expulsion from the Republic of Lithuania has been postponed;
- 9) an alien has been granted subsidiary protection in the Republic of Lithuania;
- 10) an alien has been granted temporary protection in the Republic of Lithuania;
- 11) dangerous physical condition precluding the alien's departure from the Republic of Lithuania is in need of immediate medical aid. The list of the said conditions shall be drawn up by the Minister of Health.

An alien shall personally submit *the application for replacement of a temporary residence permit* to the Migration Service or Migration Department prior to the expiry of validity of the existing temporary residence permit – not less than 2 months before the expiry of this document but not earlier than 4 months before the expiry.

The description of terms and the procedure of issuing a work permit to an alien during his/her stay in the Republic of Lithuania, which was approved by the Order No A1-223/1V-310 of the Minister of Social Security and Labour and the Minister of Interior of 28 September 2004 (Official Gazette, 2004, No 149-5435), regulates the terms for issuing a work permit to an alien lawfully staying in Lithuania.

Law on Employment Promotion of June 15 2006 (No.X-694) is applicable for the Lithuanian citizens and aliens, residing legally in Lithuania.

Pursuant to the Law of the Republic of Lithuania on Health Insurance, citizens of the Republic of Lithuania and aliens permanently residing in the Republic of Lithuania, as well as temporarily residing aliens (on condition that their employment in the country is lawful) and their minor family members are covered by the compulsory health insurance, however other members of their families are not covered by the above insurance.

Social services are provided according to the assessment of personal needs and taking into account social and physical self-sufficiency of persons. Paragraph 2 of Article 16 of the Law On Social Services stipulates that assessment of self-sufficiency of a person shall include: age of a person, his/her functional disorders, social risk, capacities related to these factors, motivation to solve own social problems, possibilities of a family to take care of a person, as well as other features influencing the capacity of a person to take care of personal (family) life and participate in public life. When organising social services, migrants shall not be excluded as a separate group of beneficiaries of services. They shall be provided with a possibility to receive support pursuant to the general procedure.

Social benefits, regulated in the Law on Child Benefits, the Law on Social Assistance in Cash to Low Income Families (Single Residents), the Law on Social Benefits, the Law on State Aid in the Case of Death, shall be granted only to permanent residents.

Free of charge meals to school pupils and provision of schooling materials, regulated by the Law on Social Assistance to Pupils, are entitled to pupils attending comprehensive schools, vocational schools, pre-school education institutions and other institutions appropriate for education of children according to comprehensive and pre-school education programmes, irrespective of whether a family is a permanent or temporary resident of the Republic of Lithuania.

The appeal on the decision made pursuant to the Law of the Republic of Lithuania On the Legal Status of Aliens (including the decisions on expulsion of an alien from the Republic of Lithuania), can be submitted to an appropriate administrative court pursuant to the procedure and terms set out in the Law on Legal Administrative Proceedings, except the cases stipulated in this law.

An alien shall be entitled to appeal to the appropriate administrative court according to the procedure established by the Law on Administrative Proceedings; and on the decision of the regional administrative court - to the Lithuanian Supreme Administrative Court within 7 days from the day when a decision was made.

Execution of the appealed decision shall be suspended if:

- 1) residence permit of an alien is revoked;
- 2) an alien, who has lodged the application for asylum, has been refused a temporary territorial asylum and is obliged to depart from the Republic of Lithuania or is deported from it to a safe third country or the country of origin.
- 3) an alien has been refused the asylum and is obliged to depart from the Republic of Lithuania, is expelled from the country or re-foaled to it; examination of application to grant asylum is terminated or granted asylum is revoked.
- 4) an alien is expelled from the Republic of Lithuania.

Provisions of the above paragraph shall not be applied in case if the ground for expulsion of an alien staying in the Republic of Lithuania is related to his/her threat to public security and public order.

In other cases suspension of the taken decision is suspended when an administrative court makes a judgement.

Conclusion

Although many of the assistance and health measures indicated above are adequate, given that the scope of Article 19§2 specifically relates to measures of this type in the context of legal migration flows, it was considered that this provision could possibly be accepted by Lithuania subject to further analysis.

Article 19 – The right of migrant workers and their families to protection and assistance

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:

4. to secure for such workers lawfully within their territories, insofar as such matters are regulated by law or regulations or are subject to the control of administrative authorities, treatment not less favourable than that of their own nationals in respect of the following matters:

- a) remuneration and other employment and working conditions;**
- b) membership of trade unions and enjoyment of the benefits of collective bargaining;**
- c) accommodation.**

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This paragraph obliges States to secure for migrant workers treatment not less favourable than that of their own nationals in the areas of: (i) remuneration and other employment and working conditions, (ii) trade union membership and the enjoyment of benefits of collective bargaining, and (iii) accommodation.

States are required to guarantee certain minimum standards in these areas with a view to assisting and improving the legal, social and material position of migrant workers and their families.

States are required to prove the absence of discrimination, direct or indirect, in terms of law and practice,⁴ and should inform of any practical measures taken to remedy cases of discrimination. Moreover, States should pursue a positive and continuous course of action providing for more favourable treatment of migrant workers.

a remuneration and other employment and working conditions;

Under this sub-heading, States are obliged to eliminate all legal and de facto discrimination concerning remuneration and other employment and working conditions, including in-service training and promotion. The provision applies notably to vocational training.

b membership of trade unions and enjoyment of the benefits of collective bargaining;

This sub-heading requires States to eliminate all legal and de facto discrimination concerning trade union membership and as regards the enjoyment of the benefits of collective bargaining, including access to administrative and managerial posts in trade unions.

c accommodation;

The undertaking of States under this sub-heading is to eliminate all legal and de facto discrimination concerning access to public and private housing. There must be no legal or de facto restrictions on home-buying, access to subsidised housing or housing aids, such as loans or other allowances.⁵

⁴ Conclusions III, p. 92.

⁵ Conclusions III, p. 92.

Situation in Lithuania

Legal relations of employment and associated issues of aliens are regulated by the Labour Code of the Republic of Lithuania, the Law on Safety and Health at Work, the Law on Legal Status of Aliens. Paragraph 1 of article 5 of the Labour Code provides for that the labour law in Lithuania (labour laws and other legal acts) apply to the employment relations in the Republic of Lithuania. Thus, if a foreigner legally works in Lithuania all legal acts regulating the employment relations shall apply to him. Paragraph 1 of article 13 of this Code provides for that working legal capacity (ability to have employment rights and duties) is recognised to be equal to all nationals of the Republic of Lithuania. Foreign nationals and persons without citizenship, permanent residents in the Republic of Lithuania shall have the same employment legal capacity in the Republic of Lithuania as the Lithuanian nationals. Only the laws may provide for exceptions. Pursuant to the Law on Legal Status of Aliens of the Republic of Lithuania aliens and persons without citizenship who are not permanent residents in the Republic of Lithuania must obtain a work permit except the cases established in this law (articles 25-26).

Remuneration for work to an alien for the equal work may not be lower than that of a national of the Republic of Lithuania. Such provisions are specified not only in the Labour Code but also in paragraph 3 of article 62 of the Law on Legal Status of Aliens. Also other provisions regulating the employment relations and conditions specified in the Labour Code, the Law on Safety and Health at Work, etc. and other by-laws shall apply to the aliens without any discrimination.

The Law No IX-1803 of 3 November 2003 changed the preamble of the Law on Trade Unions of the Republic of Lithuania and article 1 of this law (Official Gazette, 2003, No 108-4816) and provides for that not only the nationals of the Republic of Lithuania and permanent residents in the Republic of Lithuania but also all other persons legally working in Lithuania shall have the right to join trade unions and establish them.

Ratification of the provisions specified in article 19 of the European Social Charter to guarantee workers (nationals of other countries legally residing in the Republic of Lithuania) equal working conditions as to the workers (nationals of the Republic of Lithuania) would not cause any problems because the provisions of paragraph 1 of article 3 of the Law on Safety and Health at Work of the Republic of Lithuania meet the Charter provisions regarding the less favourable working conditions. Data of the State Labour Inspectorate state that there were no complaints regarding the foreigners' discrimination by creating them less favourable working conditions than those to the nationals of the Republic of Lithuania.

Pursuant to the Law on State Aid to Acquiring or Hiring Housing or Modernising Multi-family Apartment Houses (Official Gazette, 1992, No 14-378; 2002, No 116-5188) the State support shall be provided only to natural persons (families) with permanent place of residence in the Republic of Lithuania to acquire accommodation (to buy, construct, reconstruct and modernisation of multi-flat houses) or to rent municipal social housing. It means that foreigners who are in Lithuania with a purpose of temporary work from the third countries are not entitled to make use of this law.

However, citizens of other countries have the right to acquire housing. Laws of the Republic of Lithuania do not prohibit the aliens from taking loans for acquisition of housing or from purchasing housing from own funds. The same terms are applied to

them as to the citizens of the Republic of Lithuania. Upon taking the loan, they shall comply with the bank requirements.

The Law of the Republic of Lithuania On State Support to Acquire or Rent Housing and Modernisation of Multi-Apartment Buildings regulates the state support for acquisition of housing, modernisation of multi-apartment buildings and rent of social housing to natural persons (families) having a permanent place of residence in the Republic of Lithuania. Pursuant to this law, the state support is granted to persons (families) only for acquisition or rent of the first housing, and the annual income of whom and property before the year of support rendering is lower than the biggest amounts specified by the Government.

To our mind, the state cannot undertake obligation, by none of its legal acts, to support the alien living temporarily for employment purposes in Lithuania. Both, for the above persons and for persons (families) having a permanent place of residence in the Republic of Lithuania, there are no prohibitions to acquire housing from private persons and to apply to commercial banks for a credit to purchase housing.

Therefore we consider that both, to the alien temporarily residing in Lithuania for employment purposes, and to persons (families) having a permanent place of residence in the Republic of Lithuania, the same rights for acquisition of housing are guaranteed in the country.

Our suggestion is to delete the word „only“ in the first sentence of the last paragraph after the information indicated in the brackets and to delete the last sentence: „Therefore an alien temporarily residing in Lithuania for employment purposes and citizens of the third countries cannot be a subject of this law“.

Conclusion

Bearing in mind that access to public housing is restricted by law to nationals or permanent residents, it was considered that this provision could not be accepted by Lithuania at present.

Article 19 – The right of migrant workers and their families to protection and assistance

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:

6. to facilitate as far as possible the reunion of the family of a foreign worker permitted to establish himself in the territory;

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This paragraph obliges States to allow the families⁶ of migrants legally established in their territory to join them. The worker's children entitled to family reunion are those who are dependent and unmarried, and who fall under the legal age-limit in the receiving state (under the Charter the age limit for admission under family reunion is set at the age of majority, which in most countries is 18 years).

"Dependent" children are understood as being those who have no independent existence outside the family group, particularly for economic or health reasons, or because they are pursuing unpaid studies.

Conditions and restrictions of family reunion:

a) Refusal on health grounds

A state may not deny entry to its territory for the purpose of family reunion to a family member of a migrant worker for health reasons. A refusal on this ground may only be admitted for specific illnesses which are so serious as to endanger public health.⁷ These are the diseases requiring quarantine which are stipulated in the World Health Organisation's International Health Regulations of 1969, or other serious contagious or infectious diseases such as tuberculosis or syphilis. Very serious drug addiction or mental illness may justify refusal of family reunion, but only where the authorities establish, on a case-by-case basis, that the illness or condition constitutes a threat to public order or security.

b) Length of residence

States may require a certain length of residence of migrant workers before their family can join them. A period of a year is acceptable under the Charter. On the contrary, a period of three years is not in conformity with this provision of the Charter.

c) Housing condition

The requirement of having sufficient or suitable accommodation to house the family or certain family members should not be so restrictive as to prevent any family reunion.

d) Means requirement

The level of means required by States to bring in the family or certain family members should not be so restrictive as to prevent any family reunion.

⁶ For the purpose of applying this provision, the term "family of a foreign worker" is understood to mean at least the worker's spouse and unmarried children, as long as the latter are considered to be minors by the receiving State and are dependent on the migrant worker (Appendix).

⁷ Conclusions XVI-1, Greece, p. 316.

Once a migrant worker's family members have exercised the right to family reunion and have joined him or her in the territory of a State, they have an independent right to stay in that territory.

Situation in Lithuania

According to paragraph 26 of Article 2 of the Republic of Lithuania Law on the Legal Status of Aliens, family members of the alien mean the spouse or the person who has concluded a partnership agreement or an agreement equivalent to it, in so far as the family already existed in the country of origin, the children of the couple or of one of them (adopted children) under the age of 18 years, including children (adopted children) of a spouse or the person who has concluded a partnership agreement, on condition that they are unmarried and dependent on their parents, as well as relatives according to direct ascending line who have been dependent for at least one year and unable to make use of the support of other family members residing in a foreign country.

According to paragraph 27 of this Article, family reunification means the entry into and residence in the Republic of Lithuania by family members of an alien who is not a national of the European Union residing lawfully in the Republic of Lithuania in order to preserve the family unit, whether the family relationship arose before or after the alien's entry.

Article 30 of the above-mentioned Law establishes that the spouse of an alien who is not an EU Member State national or the person who has concluded partnership agreement with the alien, the unmarried and dependent children of the couple or of one of them (adopted children) under the age of 18 years who remained residing in a foreign country may enter into the Republic of Lithuania for residence with the alien who has been lawfully living in the Republic of Lithuania for a continuous period of at least 2 years.

Aliens who have submitted asylum applications in the Republic of Lithuania shall not be entitled to family reunification pending the determination of the issue regarding the granting of asylum; neither shall the right to family reunification be accorded to the aliens who have been granted subsidiary or temporary protection in the Republic of Lithuania.

The Republic of Lithuania may reject the application for the entry and residence in the Republic of Lithuania of family members on the grounds of public security, public order or public health.

The Republic of Lithuania, taking into account its capacity to receive the said family members of the alien, may provide for a waiting period of no more than three years between the submission of the application for family reunification and the issue of a residence permit to the family members.

Article 43 of the said Law provides for the cases when a temporary residence permit may be issued to an alien in the event of family reunification, that is, if:

- 1) the alien's parents (adoptive parents) or one of them who are citizens of the Republic of Lithuania are residing in the Republic of Lithuania;
- 2) the alien's child (adopted child) who is a citizen of the Republic of Lithuania is residing in the Republic of Lithuania;
- 3) the alien's spouse who is a citizen of the Republic of Lithuania or an alien in possession of a permanent residence permit is residing in the Republic of Lithuania;

- 4) an alien's parents who are incapable to work due to pensionable age or disability and are in possession of a permanent residence permit are residing in the Republic of Lithuania;
- 5) an alien's family members who have been granted a temporary residence permit on the grounds specified in subparagraphs 1 to 5, 9 and 10 of paragraph 1 of Article 40 of this Law are residing in the Republic of Lithuania.

In the event of family reunification an alien shall be issued a residence permit for one-year period.

The provisions of this paragraph of the Charter do not comply with the positions of the Republic of Lithuania laid down on the legal acts of the European Union (The Plan for the Legal Migration Policy and the Green Paper on the EU Position on the Issues of Economic Migration Management).

It is thought that Lithuania should go on seeking to preserve its national competence in the sphere of legal regulation of migration, especially when speaking about the number of the citizens of third countries to be admitted and their classification. The integration of each alien should not be binding to a member state. Only the integration of most sensitive groups of aliens (refugees) should have compulsory nature. Every member state should solve the issues of integration separately considering its individual situation in the subject state. As one of the solutions of the issues of economic migration should be a possibility given to the Member States to conclude agreements with separate third countries on the movement of workforce.

It is thought that the proposal to apply such stimulants as the simplified procedure for issuing temporary residence permit to migrant workers, more favourable conditions of issuing permanent residence permit, the simplified procedure for the reunification of families, etc. are ungrounded. It is thought that those economic migrants, who stay in the country after the expiry of their legal stay, should be returned to the countries of their origin or those states to which they have the right to go.

All aliens, like the citizens of Lithuania, shall be entitled to acquire a place of accommodation by the right of ownership or use accommodation upon a contract of lease in the private sector under commercial conditions.

The right to a social housing shall be restricted. This right shall be granted to those persons (and families) who have permanent place of residence in the Republic of Lithuania.

In the immediate future no plans are made to increase the State's obligations in this sphere.

Conclusion

This provision could possibly be accepted by Lithuania subject to further analysis.

Article 19 – The right of migrant workers and their families to protection and assistance

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:

8. to secure that such workers lawfully residing within their territories are not expelled unless they endanger national security or offend against public interest or morality;

ECSR case-law presented by Mr. PRIETO SUAREZ

[This paragraph obliges States to prohibit by law the expulsion of migrants lawfully residing in their territory, except where they are a threat to national security.](#)

[Expulsion for offences against public order or morality can only be in conformity with the Charter if it constitutes a penalty for a criminal act, imposed by a court, or under judicial authority and is based not solely on the existence of a criminal conviction but on all aspects of the non-nationals' behaviour, as well as the circumstances and the length of time of his/her presence in the territory of the State.](#)

[Risks to public health are not in themselves risks to public order and cannot constitute a ground for expulsion, unless the person refuses to undergo suitable treatment.](#)

[Seeking social assistance is also not against public order and cannot constitute a ground for expulsion.](#)

[States must ensure that foreign nationals served with expulsion orders have a right of appeal to a court or other independent body, even in cases where national security, public order or morality are at stake.](#)

[Migrant worker's family members, who have joined him or her through family reunion, may not be expelled as a consequence of his or her own expulsion, since these family members have an independent right to stay in the territory.](#)

[This paragraph applies to migrant workers and his or her family members if these persons reside legally in the territory of the State.](#)

Situation in Lithuania

Article 125 of the Republic of Lithuania Law on the Legal Status of Aliens establishes the grounds for the obligation of an alien to depart from the Republic of Lithuania.

An alien shall be obliged to depart from the Republic of Lithuania if:

1. the alien's visa has been cancelled;
2. the alien's temporary residence permit or permanent residence permit has been revoked;
3. the alien is staying in the Republic of Lithuania after the expiry of validity of the visa;
4. the alien is staying in the Republic of Lithuania after the expiry of the temporary residence permit;

5. the alien lawfully entered into the Republic of Lithuania, but is staying in the Republic of Lithuania without possessing a temporary or a permanent residence permit where he is obliged to possess one;
6. the alien has been staying in the Republic of Lithuania for a period exceeding the period of visa-free stay in a state set by an international treaty of the Republic of Lithuania, a legal act of the European Union or the Government of the Republic of Lithuania.

Paragraph 1 of Article 126 of this Law establishes the grounds for expelling an alien from the Republic of Lithuania.

An alien shall be expelled from the Republic of Lithuania if:

- 1) the alien has failed to comply with the requirement obliging him to depart from the Republic of Lithuania within a set time period;
- 2) the alien has entered into or is staying in the Republic of Lithuania unlawfully;
- 3) the alien's stay in the Republic of Lithuania constitutes a threat to public security or public order.

Hence, migrant workers who have entered into or are staying in the Republic of Lithuania lawfully, unless their stay in the Republic of Lithuania constitutes a threat to public security or public order, shall not be expelled from the Republic of Lithuania.

Grounds for revoking the alien's temporary residence permit to reside in the Republic of Lithuania shall be regulated in Article 50 of the Law on Legal Status of Aliens. Paragraph 2 of this Article establishes that temporary residence permit shall be revoked on the grounds specified in subparagraphs 4 to 12 of paragraph 1 of this Article if this has constituted the ground for receiving a temporary residence permit. According to Article 125 of the Law on Legal Status of Aliens, in this case the alien may be obligated to depart from Lithuania. Taking into consideration this, as well as the interpretations of paragraph 8 of Article 19 of the European Social Charter (revised) presented by the European Committee of Social Rights of the Council of Europe (hereinafter referred to the Committee), it is thought that the provisions of the said Law on the legal status of aliens are not at variance with the provisions laid down in paragraph 8 of Article 19 of the Charter because according to the Committee's interpretation, paragraph 8 of Article 19 of the Charter shall only apply to those migrant workers who reside in the territory of the country legally, and these are the workers who have documents lawfully required by the receiving country, including, if required, the residence permit and the work permit. The Committee also interpreted that a person who loses the work permit because he loses work, shall also lose security to which he is entitled according to paragraph 8 of Article 19 of the Charter, if due to that he is deprived of the right to reside in the territory of the country. Hence, it is thought that paragraph 8 of Article 19 of the Charter does not prohibit cancelling the alien's residence permit (and at the same time does not prohibit expelling the alien from the territory of the country) if the ground on which such residence permit has been issued, disappears.

Article 137 of the Law on Legal Status of Aliens establishes that an appeal against the decision taken in accordance with this Law may be lodged with the appropriate administrative court in the manner and under the conditions established by the Law on Administrative Proceedings, except the cases provided for in this Law. The said Law shall provide for no exceptions, which would prohibit lodging an appeal against the decision taken on revoking a temporary residence permit or on expelling the alien from the country, thus migrant workers, mentioned in paragraph 8 of Article 19 of the

Charter, shall have the right to apply to the court and appeal against the decisions taken in respect of them.

On the other hand it should be noted that paragraph 8 of Article 19 of the Charter is interpreted so that an alien shall also have the right to appeal against the decision taken on expelling him/her from the country in case it is decided to expel him/her due to a threat he/she poses to national security, public interests or morality. Since according to subparagraph 1 of paragraph 2 of Article 128 and paragraph 2 of Article 139 of the Law on Legal Status of Aliens, the implementation of such a decision, after it has been appealed against in court, shall not be suspended, this means that according to the laws of the Republic of Lithuania, in certain cases it is actually possible to expel the alien from Lithuania before he/she made use of his/her right of appeal, that is, without waiting for a court decision on the lodged complaint. It is questionable whether this legal regulation complies with paragraph 8 of Article 19 of the Charter.

Conclusion

Taking into account the criteria in the Law on the Legal Status of Aliens under which an alien may be obliged to depart, as well as the fact that in some situations a person may be expelled before having the possibility of making use of the right of appeal, there are doubts as to whether the current situation fully complies with Article 19§8. Therefore, this provision could possibly be accepted by Lithuania subject to further analysis.

Article 19 – The right of migrant workers and their families to protection and assistance

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:

12. to promote and facilitate, as far as practicable, the teaching of the migrant worker's mother tongue to the children of the migrant worker.

ECSR case-law presented by Ms. CASEY

The undertaking of States under this paragraph is to promote and facilitate the teaching, in schools or other structures, such as voluntary associations, of those languages that are most represented among migrants within their territory. In practical terms, States should therefore promote and facilitate the teaching of the mother tongue where there are a significant number of children of migrants who would follow such teachings.

Situation in Lithuania

According to the Constitution of the Republic of Lithuania, international documents, laws and other legal acts, ethnic minorities of Lithuania are granted broad rights in the educational sphere: the right to have schooling in their mother tongue or learn their mother tongue; the right to learn ethnic culture, religion; the right to acquire education, to train their personnel; the right to have and establish their educational institutions, etc.

Article 25 of the Law on Education of the Republic of Lithuania (Official Gazette, 1991, No 23-593; 2003, No 63-2853) stipulates that each citizen of the Republic of Lithuania, also each alien having a permanent or temporary residence permit for the Republic of Lithuania, has the right to study, attain an education level and qualification. The state guarantees that each citizen of the Republic of Lithuania, also each alien having a permanent or temporary residence permit for the Republic of Lithuania has the right to acquire primary, basic and secondary education as well as access to special vocational training curricula resulting in the acquisition of primary qualification. Para.10 of the description of the procedure on acceptance to public vocational schools, approved by the Order No ISAK-190 of the Minister of Education (Official Gazette, 2005, 22-692, 2005, No 81-2980), stipulates that vocational schools accept aliens, having permanent or temporary residence permits for the Republic of Lithuania, the unaccompanied minor aliens, irrespective of whether their stay in the Republic of Lithuania is lawful, and minor aliens for whom temporary protection in the Republic of Lithuania was granted. The Order No ISAK-789 of the Minister of Education and Science On Education of Children of the Alien, who Arrived to the Republic of Lithuania for Work or Residence Purposes, in Comprehensive Schools (Official Gazette, 2003, No 57-2554) stipulates that education in comprehensive schools shall be guaranteed for children of the alien who arrived to the Republic of Lithuania for work or residence purposes, the minor aliens upon a receipt of temporary protection in the Republic of Lithuania, the unaccompanied minor aliens, irrespective of whether their stay in the territory of the Republic of Lithuania is lawful. Each child of the alien shall be given a possibility to learn the state Lithuanian language in state Lithuanian language and, if possible to learn their mother tongue. In case if mother tongue of migrants is Russian and Polish, children shall have a possibility to attend schools where the school curriculum is delivered in the above languages.

The Law on Ethnic Minorities of the Republic of Lithuania guarantees these rights (*Official Gazette* No. 34-485, 1989) also guarantees the above rights, related to the Constitution of the Republic of Lithuania and relevant to this paragraph of the Charter. Article 2 of this Law specifies that the Republic of Lithuania, taking into account the interests of all ethnic minorities, shall guarantee them the right under the law and the procedures there under: to obtain aid from the state to develop their national culture and education; the right to have schooling in one's native language, with provision for pre-school education institutions, classes and general education schools as well as provision for groups, faculties and departments at institutions of higher education. The provisions of Article 7 of this Law establish that public and cultural organisations shall also have the right to establish educational and cultural institutions on their own expense. The Article also guarantees the aid of the state to the organisations and institutions, which are devoted to meet cultural and educational needs of the citizens.

Educational issues of ethnic minorities are also regulated by the Framework Convention for the Protection of National Minorities (hereinafter referred to as the Convention), which the Republic of Lithuania ratified on 17 February 2000 and which came into effect on 1 July 2000 (*Official Gazette* No 20-497, 2000). Article 12 of the Convention establishes that the Parties undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities. Article 13 of this Convention states that the Parties shall recognise that persons belonging to a national minority have the right to set up and to manage their own private educational and training establishments. It should be noted that the exercise of this right shall not entail any financial obligations for the Parties. Article 14 of the Convention specifies that the Parties undertake to recognise that every person belonging to a national minority has the right to learn his or her minority language. In the areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is sufficient demand, the Parties shall endeavour to ensure, as far as possible and within the framework of their education systems, that persons belonging to those minorities have adequate opportunities for being taught the minority language or learn in this language.

The Law on Education of the Republic of Lithuania (*Official Gazette* No 63-2853, 2003) guarantees education in the mother's tongue. Paragraph 7 of Article 28 establishes that in the localities where a national minority traditionally constitutes a substantial part of the population, and upon that community's request, the municipality assures the possibility of learning in the language of national minority. Article 30 of this Law regulates the right to study in the state language and in the mother tongue. On the basis of paragraph 2 of this Article, at those general education and non-formal education schools, the by-laws of which (respecting the requests of parents and learners) provide for teaching in a language of an ethnic minority and fostering of the ethnic minority's culture, the teaching process is conducted or certain subjects are taught in the language of the ethnic minority. The subject of the Lithuanian State language is a constituent part of the curriculum at such schools. In such schools the primary and basic curricula are implemented in the language of the ethnic minority, while selected curriculum subjects may be taught in the Lithuanian State language, upon the parents' (foster parents', guardians') request. The secondary curriculum is implemented in the language of the ethnic minority. Curriculum subjects selected by the learners may be taught in the Lithuanian state language (subparagraph 2 of paragraph 2 of Article 30). Paragraph 3 of Article 30 of the said Law establishes that state-run and municipal pre-schools and general education schools shall provide opportunities for learners who belong to ethnic minorities to have supplementary study of their mother tongue; this is subject to the

existence of a real need and the availability of a specialist of that language and if the teaching process is organised in another language.

Paragraph 4 of Article 30 regulates that a person who belongs to an ethnic minority may study his mother tongue at a school that implements non-formal education programs or with another education provider. The children of persons who have the right to permanently or temporarily reside in the Republic of Lithuania are granted the possibility of studying the Lithuanian State language, of receiving education in the Lithuanian State language and when possible of studying their mother tongue.

Issues of education of ethnic minorities are also regulated by the Regulations of Education of Ethnic Minorities approved by the Order No 56 of the Minister of Education and Science of 16 January 2002 "On Regulations of Education of Ethnic Minorities" (*Official Gazette* No 9-337, 2002). In accordance with paragraph 8 of these Regulations, the education of ethnic minorities of Lithuania shall be organised on the basis of the provisions reflecting the rights of the persons belonging to ethnic minorities to preserve the identity of their ethnical culture and determining the institutional structure of education of ethnic minorities, peculiarities of the educational contents and process, as well as the most important principles of financing education of ethnic minorities.

In 2005-2006 school year there were 169 general education schools by the language of instruction of ethnic minorities in the Republic of Lithuania.

All the schools of the country can be divided into three groups. One group is schools where the language of instruction is the Russian language (there were 47 such schools in 2005–2006 school year) and the Polish language (there 62 schools in 2005–2006 school year). All the subjects in these school are taught in the mother tongue. The second group is Jewish (one school), Belarusian (one school) and German (one school) schools founded after the year 1990. Only part of the subjects in these schools is taught in the languages of ethnic minorities. The third group is schools where the language of instruction is Lithuanian – Russian (16 schools), Lithuanian – Polish (16 schools), Russian – Polish (14 schools) and Lithuanian – Russian – Polish (11 schools) languages.

Laws of the Republic of Lithuania also guarantees the ethnic minorities residing in the country the right to found and have Saturday (Sunday) schools and other children's activities of non-formal education: subparagraph 2 of paragraph 7 of Article 41 of the Law on Education of the Republic of Lithuania specifies that, apart from everything else, the non-formal children's education school type includes Saturday and Sunday schools of ethnic minorities. At the present time there are 46 schools of this nature. The status, purpose, and basics of activities of such schools are defined by the Concept of a Saturday and Sunday School of Ethnic Minorities approved by Order No ISAK-1463/V-65 of the Minister of Education and Science of the Republic of Lithuania and the General Director of the Department of National Minorities and Lithuanians Living Abroad of 20 September 2004. In accordance with paragraph 4 of this Concept, a Saturday and Sunday School is an educational institution of non-formal education intended for maintaining the ethnic-linguistic viability of the ethnic minority, meeting specific educational needs of the children and youth of ethnic minorities – learning their mother tongue, traditions and culture, preserving and strengthening their national identity, as well as meeting the needs for ethnic-cultural expression and socialisation.

Pursuant to the Law on Social Assistance to Pupils (13 June, 2006, No X-686), pupils from low-income families shall be provided with free meals at school, as well as

relevant schooling materials before the beginning of a new school year, irrespective of whether a family resides in Lithuania permanently or temporarily

Conclusion

In the light of the current legal situation and practice this provision could be immediately accepted by Lithuania.

Article 23 – The right of elderly persons to social protection

With a view to ensuring the effective exercise of the right of elderly persons to social protection, the Parties undertake to adopt or encourage, either directly or in co-operation with public or private organisations, appropriate measures designed in particular:

to enable elderly persons to remain full members of society for as long as possible, by means of:

a adequate resources enabling them to lead a decent life and play an active part in public, social and cultural life;

ECSR case-law presented by Ms. KARL

The primary focus of the right to adequate resources is on pensions. Pensions and other state benefits must be sufficient in order to allow elderly persons to lead a 'decent life' and play an active part in public, social and cultural life. The Committee compares pensions with the average wage levels and the overall cost of living. Pensions must be index-linked.

The Committee also takes into consideration the cost of transport as well as the cost of medical care and medicine, as well as the existence of a carer's allowance for family members looking after an elderly relative.

b provision of information about services and facilities available for elderly persons and their opportunities to make use of them;

Although Article 23§1b only refers to the provision of information about services and facilities, the Committee considers that 1§b of Article 23 presupposes the existence of services and facilities and that elderly persons have the right to certain services and facilities. Therefore, the Committee examines not only information relating to the provision of information about these services and facilities but also these services and facilities themselves. In particular, information is required on the existence, extent and cost of home help services, community based services, specialised day care provision for persons with dementia and related illnesses and services such as information, training and respite care for families caring for elderly persons, in particular, highly dependent persons, as well as cultural leisure and educational facilities available to elderly persons.

to enable elderly persons to choose their lifestyle freely and to lead independent lives in their familiar surroundings for as long as they wish and are able, by means of:

a provision of housing suited to their needs and their state of health or of adequate support for adapting their housing;

The needs of elderly persons must be taken into account in national or local housing policies. The supply of adequate of appropriate housing for elderly person must be sufficient. Housing law and policy must take account of the special needs of this group. National policies should help elderly persons to remain in their own homes for as long as possible through the provision of sheltered/supported housing and assistance for the adaptation of homes.

b the health care and the services necessitated by their state;

In the context of a right to adequate health care for elderly persons Article 23 requires that health care programmes and services (in particular primary health care services including domiciliary nursing/health care services) specifically aimed at the elderly must exist together with guidelines on healthcare for elderly persons. In addition, there should be mental health programmes for any psychological problems in respect of the elderly, and adequate palliative care services.

to guarantee elderly persons living in institutions appropriate support, while respecting their privacy, and participation in decisions concerning living conditions in their institution.

The final part of Article 23 deals with the rights of elderly persons living in institutions. In this context, it provides that the following rights must be guaranteed; the right to appropriate care and adequate services, the right to privacy, the right to personal dignity, the right to participate in decisions concerning the living conditions in the institution, the protection of property, the right to maintain personal contact with persons close to the elderly person and the right to complain about treatment and care in institutions.

There should be a sufficient supply of institutional facilities for elderly persons (public or private), care in such institutions should be affordable and assistance must be available to cover the cost. All institutions should be licensed, subject to a declaration regime, to inspection or to any other mechanism which ensures, in particular, that the quality of care delivered is adequate.

Issues such as the requirements of staff qualifications, staff training and the wage levels of staff, compulsory placement, social and cultural amenities and the use of physical restraints are also examined under this provision.

Situation in Lithuania

Persons who have attained pensionable age can be awarded and paid state social insurance old age pensions (from the budget of the State Social Insurance Fund) or social assistance pension (from the funds of the State budget). State social insurance old age pensions (hereinafter referred to as old age pensions) shall be awarded and paid to the persons who have at least the minimum state social pension insurance period (15 years) or total work record equal to it (hereinafter referred to as the work record) (Law on State Social Insurance Pensions of the Republic of Lithuania; *Official Gazette* No 59-1153, 1994, No 71-2555, 2005). The amount of the old age pension awarded to a person shall depend on the total work record of the person and the insured income received by the person on which social insurance contributions were calculated and paid.

Since 1 January 2006 the persons who are not entitled to receive any kind of pension and who have attained pensionable age shall be awarded and paid social assistance benefits (Law on State Social Assistance Benefits; *Official Gazette* No. 96-1873, 1994, No. 71-2556, 2005), thus awarding these persons certain pension guarantees upon attaining pensionable age. These persons shall be awarded the assistance benefit of the amount of 0.9 of the basic pension. The Law on State Social Assistance Benefits also establishes that those persons who receive a pension (state social insurance pension, state pension, the pension of foreign states or any other payment of a pension nature) but the amount of which (or the total sum of the

pension received) is smaller than the assistance benefit, shall be paid the difference between the assistance benefit and the pensions received and (or) the pension payment (their total sum).

The persons, who have attained pensionable age can also be awarded the state social insurance widow's pension (from the budget of the State Social Insurance Fund), as well as one of the state pensions (first and second degree state pensions, state pensions to persons who are victims, state pensions to scientists, officials and military personnel, judges), as well as one state widow's pension, which are paid from the funds of the State budget.

Hence, according to legal acts of the Republic of Lithuania regulating the procedure for awarding and paying pensions to all persons upon attaining old-age pension age, the right to receive a pension shall be ensured, and some of these persons shall be entitled to receiving as many as four pensions.

Concerning expenditures on paying old age pensions to the persons who have attained pensionable age (expenditures in 2005):

- from the budget of the State Social Insurance Fund – to pay state social insurance old age and widow's pensions - LTL 3163.5 million;
- from the state budget – to pay state pensions – LTL 270 million. As assistance benefits to the persons who have attained old-age pension age and who are not entitled to a pension of any type, have been commenced to be awarded and paid only since 1 January 2006, during the first half of the year 2006 LTL 4.5 million were spent on paying these benefits.

In providing medical assistance, as far as possible, the condition of elderly people is taken into consideration. When carrying out restructuring of health care institutions, the structure of the age of the population, as well as the ageing society was taken into account. During the past year in reducing the number of beds of internal diseases, obstetrics, gynaecology and other profiles, the number of beds intended for nursing was increased. Services of sustainable treatment and nursing are provided in accordance with medical norm MN 80:2000 "Hospital of Sustainable Treatment and Nursing". According to the plan for measures of implementing the Programme of the Government of the Republic of Lithuania for 2006-2008, drafts of legal acts regulating the provision of services of palliative help are under preparation.

Seeking to improve the accessibility of services, it is planned to provide patients with a greater number of nursing and palliative help services at home. Services of health care of the disabled, as well as procedures provided by the nursing personnel at home are entered on the approved *List of Stimulating Services of Primary Outpatient Health Care of a Person*, which are additionally paid for at the basic prices from the budget of the Compulsory Health Insurance Fund.

Furthermore, in 2005 *the differentiated* procedure for paying for *nursing and sustainable treatment* services was approved, thereby which for services provided to the patients to whom treatment with injection narcotic analgesics or epidural anaesthetisation was applied, an increased basic price of one day in hospital shall be paid.

In this connection the following legal acts of the Republic of Lithuania are of importance: Law on Health System No I-552, 19 July 1994 (*Official Gazette* 1998, No. 112-3099), Order No 529 of the Minister of Health of 6 October 2000 On the

Approval of the List of Medical Assistance Measures (*Official Gazette* No 85-2609, 2000; No 152-5563 2004; No 61-2184; No 142-5146, 2005; No 14-522, No 35-1280, 2006; No 67-2482, 2006). The latter provides for compensation for medical services related to old age ailments.

In 2004 the state and municipal costs for old age pensions (pursuant to the ESSPROS methodology these are the costs allocated for the old age pension, pre-retirement (old age) pension, guardianship allowance and other cash benefits (Signatory rent), as well as for the accommodation, home care and other in-kind services (day centres, discounts for the elderly for usage of public transport) comprised LTL 3650502 thousand, from them LTL 324432 thousand from the state budget, LTL 68914 thousand – from the municipal budget, LTL 3254900 thousand – from the State Social Insurance Fund budget, LTL 2255 thousand – costs of other sources. LTL 61127 thousand have been allocated for provision of social services (in care institutions for the elderly and disabled (expenditure related to the pension age citizens)), home care and social services in day centres; from them LTL 35971 thousand – from the state budget and LTL 25156 thousand from the municipal budgets.

With a view to retaining the elderly in their homes for as long as possible and avoiding the necessity of residential services, municipalities organise provision of social services at home. In 2005 the above services were rendered to 3332 elderly and old age persons and 3396 pension age disabled persons.

Upon the assessment of social care, usually the elderly are referred to social care institutions pursuant to the established legal procedure („Description of the Procedure for the Assessment of the Need for and Granting Social Services to a Person (Family)“ and „Methodology for the Assessment of the Need for Social Care for an Elderly Person and an Elderly Person with Disability“, approved by the Order No A1-94 of the Minister of Social Security and Labour of 5 April 2006. The need for social services shall be assessed according to the criteria of evaluation of social and physical self-subsistence of a person.

Care institutions of the elderly of county subordination are designed for the residence of the pension age persons with high degree of special needs, or persons with disability group I (high degree of special needs and disability group I is not obligatory to 75-year olds and senior persons) who need care and supervision and who cannot live on their own and their children cannot take care of them due to objective reasons. The procedure on settlement in the residential social care institutions is regulated by the Order No 97 of the Minister of Social Security and Labour of 9 July 2002 (Official Gazette, No 76-3274; 2003, No 48-2141; No 84-3848; 2005, No 60-2131).

The number of public care homes for the elderly has not been changing for several years, however, the number of municipal home care homes for the elderly is increasing. In 1991 there were only 3 municipal care institutions, and in 2005 the number of care homes for the elderly in municipalities has increased to 55. Currently residential care services for the elderly are rendered in 56 municipalities, 14 residential care beds fall on 10 thousand Lithuanian citizens (in 1990 – 6 beds). Care institutions for the elderly (end of year)

	2003	2005
Care institutions for the elderly, total	94	97
Number of residents in care institutions	4761	4927
County care homes	7	8
Number of residents	1636	1764
Municipal care homes	54	55
Number of residents	2069	2158
Other care institutions ¹	3	2
Number of residents	333	200
Non-governmental care institutions	30	32
Number of residents	723	805

¹ Veisiejai boarding house, care home "Tremtinių namai" ("Home of Deportees"), Gerontology and Rehabilitation Centre

Data of the Lithuanian Statistics under the Government of the Republic of Lithuania

There is quite big number of municipalities where care problems of the elderly are solved by establishing social services institutions (alternative to residential care), i.e. day centres, community centres, or by establishing social services centres within the framework of residential care institutions, providing also non-residential services. In 2005 in Lithuania there were 40 community centres and day centres for the elderly. Day centres provide for a possibility to improve quality of life of the above persons, since old people have there an opportunity to communicate, solve their problems and, consequently, help themselves and the others. The number of staff in care institutions for the elderly in 2005 comprised 2395 persons, from them – 866 social workers, 669 care workers and 41 volunteer.

Quality of services provided in social services institutions is supervised by the Department for Supervision and Audit of Social Institutions under the Ministry of Social Security and Labour, by county governor's administrations and municipalities. Requirements for social services institutions are established in the "Requirements for Non-Residential Social Services Institutions" approved by the Order No A1-72 of the Ministry of Social Security and Labour of 28 April 2003; "Requirements for Residential Social Care Institutions" approved by the Order No. 97 of 9 July 2002 and "Hygiene Norm HN 125:2004" approved by the Order of the Minister of Health on 9 February 2004.

While implementing provisions of the Law on Social Services, draft social care standards have been elaborated. By social care standards the efforts are made to ensure quality of life of beneficiaries of social services receiving social care in institutions and at home, by regulating not only quantitative requirements for buildings, facilities, catering etc., but also the protection of rights of these persons. From 2010 social care will be a licensed activity. Social care standards will be one of the major conditions for a licensed activity. With a view to getting prepared for licensing, it is envisaged that social care standards suggested in the draft resolution, will come into force on 1 January 2007. Social care standards will be applied to all social care institutions irrespective of their subordination, as well as to family-type institutions and families taking care of children.

The Law on State Aid to Acquiring or Hiring Housing or Modernising Multi-family Apartment Houses of the Republic of Lithuania and other legal acts establish the possibility for elderly people with low income to provide themselves with living premises and to receive state aid to modernise the dwelling. According to the plan for measures of implementing the Government's programme for 2006-2008, it is planned to supplement the said law providing for a possibility to compensate a part of the rent to the persons who are entitled to social housing and hiring a dwelling in the private sector.

The Lithuanian Housing Strategy up to 2020 has been approved by the Resolution No 60 of the Government of 21 January 2004. One of its major goals is to expand possibilities for the selection of housing to all social groups of citizens. While implementing this goal the following objectives have been specified: to accelerate the development of rental housing sectors and construction of dwellings, and to increase the efficiency of the housing credit market.

The Law on State Aid to Acquiring or Hiring Housing or Modernising Multi-family Apartment Houses of the Republic of Lithuania and other legal acts establish the possibility for elderly people with low income to provide themselves with living premises and to receive state aid to modernise the dwelling. The Lithuanian citizens (including the elderly), having no financial possibilities to purchase own housing, shall have the right to social accommodation. It is envisaged, that by the year 2020 a comparative part of the social accommodation will increase from 2,4% to 4-5%. Pursuant to the Plan for Implementation of Measures of the Programme of 2006-2008 of the Government, it is envisaged to complement the Law on State Support to Acquire or Rent Housing and Modernisation of Multi-Apartment Houses, by anticipating a possibility to compensate part of the rent tax for persons having the right to social accommodation and renting housing in private sector.

The State, with a view to avoiding social exclusion and pursuant to the Law of the Republic of Lithuania On Social Assistance in Cash to Low-Income Families (Single Residents) supports low-income persons in maintaining their housing (including the elderly), and grants financial support by compensating the costs of heating, hot and cold water.

State support for acquisition (and reconstruction) of housing, pursuant to the Law of the Republic of Lithuania On State Support to Acquire or Rent Housing and Modernisation of Multi-Apartment Houses, is provided irrespective of the age for purchasing of the first appropriate habitation. Pursuant to the above law, persons who have reached the old pension age and for whom the need for meeting their special needs has been established are entitled to a subsidy for covering part of the housing credit. Social housing rent is specified by municipal institutions pursuant to the procedure on calculation of the rent tax for state and municipal dwellings, established by the Government.

Conclusion

As there are no specific measures or policies for the housing needs of elderly persons, this provision cannot be accepted at present.

Article 30 — The right to protection against poverty and social exclusion

With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, the Parties undertake:

- a to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and social and medical assistance;**
- b to review these measures with a view to their adaptation if necessary.**

ECSR Case-law presented by Mr. LEPIIK

Living in a situation of poverty and social exclusion violates the dignity of human beings. Poverty means deprivation due to a lack of resources.

With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, Article 30 requires States Parties to adopt an overall and coordinated approach, which should consist of an analytical framework, a set of priorities and measures to prevent and remove obstacles to access fundamental social rights. There should also exist monitoring mechanisms involving all relevant actors, including civil society and persons affected by poverty and exclusion. This approach must link and integrate policies in a consistent way, moving beyond a purely sectoral or target group approach.

The measures taken for such a purpose must promote and remove obstacles to access to fundamental social rights, in particular employment, housing, training, education, culture and social and medical assistance. It should be noted that this is not an exhaustive list of the areas in which measures must be taken to address the multidimensional phenomena of poverty and social exclusion.

The measures should strengthen access to social rights, their monitoring and enforcement, improve the procedures and management of benefits and services, improve information about social rights and related benefits and services, combat psychological and socio-cultural obstacles to accessing rights and where necessary specifically target the most vulnerable groups and regions. Access to fundamental social rights is assessed by taking into consideration the effectiveness of policies, measures and actions undertaken.

As long as poverty and social exclusion persist, alongside the measures there should also be an increase in the resources deployed to make social rights possible. Adequate resources are one of the main elements of the overall strategy to fight social exclusion and poverty, and should consequently be allocated to attain the objectives of the strategy. Moreover, adequate resources are an essential element to enable people to become self-sufficient.

Finally, the measures should be adequate in their quality and quantity to the nature and extent of poverty and social exclusion in the country concerned. In this respect the definitions and measuring methodologies applied at the national level and the main data made available are systematically reviewed. The at-risk-of-poverty rate before and after social transfers (Eurostat), is used as a comparative value to assess national situations.

Situation in Lithuania

Assistance in cases of poverty and social exclusion is provided and regulated by the Law on Social Services of the Republic of Lithuania, the Law on Individual Income Security and other legal acts. The relative poverty rate of Lithuania is close to the average of the European Union.

It is recognised in Lithuania that the people are considered as living in poverty whose income and other resources (material, cultural and social) are so low that they do not assure living standards accepted in society. Due to low income and other resources those people are unable to take part in the activities, which are considered to be common to other members of society.

Poverty line. By means of this indicator persons or households are divided into poor and not poor one. At the present time, when assessing the poverty rate and distribution of the country's population, the following indicators of the poverty line are used:

Absolute poverty line. By means of this poverty line a minimum rate of income or expenditures necessary to satisfy the basic needs is assessed. Two indicators are used to assess the line of absolute poverty: the Calculated Minimum Living Standard (hereinafter referred to as the Calculated MLS) and the Applied Minimum Living Standard (hereinafter referred to as the Applied MLS). When determining the minimum living standard in the methodology of calculating the Calculated MLS, the assessment of minimum needs for food plays the main role. The collection of foodstuffs that the minimum basket of foodstuffs contains is selected taking into consideration the consumption traditions of the population and adequacy of this collection of foodstuffs to the physiological needs of a human organism. When evaluating this collection in terms of money, minimal purchasing prices are used, which the Department of Household Studies of the Department of Statistics presents. Having evaluated the value of the basket of foodstuffs, the supposition is made that the value of this basket accounts for 50 per cent of all minimum consumption expenditures. This percentage part is chosen taking into account the share of foodstuffs of an average consumer in the consumption expenditure.

Relative poverty line. The relative poverty line is related to certain average indicators of income or expenditures (most often to the average or the median). This poverty line depends solely on the distribution of income (expenditures) in society and varies both with changes in distribution of population by the living standard and with the increase or decline in the average living standard in the country. To assess this poverty line indicators of 50 per cent of the average of the consumption expenditures and 60 per cent of the median of the disposable income are used.

Subjective poverty line. The subjective poverty shall be determined by asking the respondents what sum of money would be enough for them to satisfy their minimum needs. Usually the subjective poverty line is much higher than the poverty line calculated by means of other methods because it is determined by investigating the persons who have income of different sizes, and the minimum needs of the wealthy people are considerably greater than those of poor people.

We provide data about poverty
Indicators of poverty rate and poverty distribution in Lithuania in 2005

	Values of poverty lines (per equivalent consumer), LTL	Poverty rate (%)	Poverty distribution (population in thou.)
Line of extremely severe poverty (MGL)	125	0,3	10
Calculated MGL	215	6,9	234
Relative poverty line (50% of the average consumption expenditure)	363	16,9	577
Poverty risk line (60 % of the median of disposable income)	434	15,9	543

In 2005, the highest rate of relative poverty was in rural areas, the lowest – in the largest cities. 29.5 per cent of the rural population and 7.7 per cent of the population of the largest cities lived below the relative poverty line in 2005. Average consumption expenditures of the rural population living below the relative poverty line, when calculating per equivalent consumer, accounted for 27.5 per cent, those of the urban population were 20.9 per cent less than the poverty line. Rural population accounted for 58 per cent of the poor people (33 per cent of the total population).

	2005
<i>All households</i>	16,9
<i>Urban areas:</i>	10,6
<i>of which</i>	
<i>5 largest cities</i>	7,7
<i>other towns</i>	14,8
<i>Rural areas</i>	29,5

Source: Information of the Department of Statistics under the Government of the Republic of Lithuania.

Poverty affected different strata of society rather differently. The smallest number of poor people is found among the self-employed people and employers, that is, in household where the head is the main source of income – business, crafts, free professional activities. According to the study of the budgets of households this group of household includes those people who live from their independent work, even unregistered small business, accidental jobs, which they specified as the main source of living).

The relative poverty rate (12.0 %) that was lower than the average in the country was determined in the group of households of employees too. 35.8 per cent of households living on benefits, student grants, savings, 21.6 per cent of self-employed in agriculture and 28.6 per cent of pensioners - members of households, found themselves below the relative poverty line in 2005.

*Relative poverty rate by socio-economic group**Per cent*

	2005
<i>Socio-economic group of household head</i>	
<i>Employees</i>	12,0
<i>self-employed, employers</i>	9,2
<i>self-employed in agriculture</i>	21,6
<i>Pensioners</i>	28,6
<i>Others</i>	35,8

Source: Information of the Department of Statistics under the Government of the Republic of Lithuania.

The head of nearly half the surveyed households was a female, however, only a little less than one third (30 %) of females – heads of the households – lived in marriage. Others were widows or lived separately from their spouses, that is, lived in the households without males who could be the head of the household. The relative poverty rate in the households whose head was a female was higher than that in the households whose head was a male, however, differences were determined not only by the sex of the head of the household but also by a different composition of these household.

*Relative poverty rate by sex of household head**Per cent*

	2005
<i>Sex of household head</i>	
<i>Male</i>	15,3
<i>Female</i>	19,3

Source: Information of the Department of Statistics under the Government of the Republic of Lithuania.

When comparing households of different types it becomes obvious that households with small children were poor more often, also including the so-called households with children (this group comprises households with grown up children and children under 18 years of age, households consisting of several married couples with children, etc.). Single persons were among the most poor ones.

*Relative poverty rate by type of household**Per cent*

	2004	2005
<i>Type of household</i>		
<i>single person</i>	17,2	20,2
<i>single adult with children under 18</i>	23,0	17,6
<i>couple with children under 18</i>	12,2	14,0
<i>other households with children under 18</i>	23,4	22,8
<i>couple without children</i>	10,8	12,1
<i>other households without children under 18</i>	17,5	17,7

The relative poverty rate of households with children under 18 years of age is higher than on average in the country (17.2 % and 16.9 %, relatively), besides, it differs greatly by the number of children in the family. In families with many children (households with three and more children) the relative poverty rate accounted for 36,5 per cent.

*Relative poverty rate in the households with children**Per cent*

	2005
<i>All households with children under 18</i>	17,2
<i>of which</i>	
<i>with 1 child</i>	11,9
<i>with 2 children</i>	17,4
<i>with 3 and more children</i>	36,5

Source: Information of the Department of Statistics under the Government of the Republic of Lithuania.

Relative poverty rate by age groups and composition of households by sex and age of household members, 2005

Per cent

	Relative poverty rate	Composition of the household by sex and age of household members	
		all households	of which below poverty line
All household members	16,9	100,0	100,0
Children under 16	18,5	18,6	20,3
Under 1 year	11,7	0,9	0,6
1–2 years	20,5	1,8	2,1
3–5 years	22,1	2,9	3,8
6–8 years	17,8	3,2	3,4
9–12 years	18,2	5,2	5,6
13–15 years	17,6	4,6	4,8
Males	16,8	37,1	36,9
of which			
16–17 years	18,9	1,6	1,8
60 years and older	20,9	7,3	9,0
Females	16,4	44,3	42,8
of which:			
16–17 years	19,2	1,5	1,7
60 years and older	22,1	12,9	16,8

Source: Information of the Department of Statistics under the Government of the Republic of Lithuania.

At the present time Lithuania is changing over to the poverty assessment system, which is used in the European Union. In 2005 different indicators were used to assess poverty, in the future the median indicator of 60 per cent of equivalent disposable income will be used. According to this assessment, in 2005 the poverty risk rate in Lithuania was 15.9 per cent (the poverty risk rate prior to paying social benefits accounted for 23 per cent). The highest poverty risk rate was in rural areas, the lowest one – in the largest cities. Having compared it with the average, the highest poverty risk group comprises single persons (25.8 per cent) and especially single person of 65 years of age and older (27.1 per cent).

In 2005 the poverty risk rate among household with children under 18 years of age accounted for 16.4 per cent and did not differ from the average indicator of the country too significantly – 15.9 per cent. However, the poverty risk rate is much higher in incomplete families, in which a single adult (most often a female) maintain children (31.4 per cent), as well as in families where two adults maintain three or more children, their poverty risk rate accounts for 21.2 per cent.

Poverty risk rate in different households in 2005 (according to 60 per cent of the median of equivalent disposable income)

Type of household	Total
All households	15,9
Households without dependent children	15,2
Household of a single person	25,8
Single persons under 65 years of age	24,8
Single persons of 65 years of age and older	27,1
Two adults without dependent children, both over 65 years of age	11,4
Two adults without dependent children, at least one of them 65 + years old.	6,4
Other households without dependent children	9,9
Households with dependent children	16,4
A single adult with dependent children	31,4
Two adults with one dependent child	12,8
Two adults with two dependent children	14,9
Two adults with three and more dependent children	21,2
Other households with dependent children	13,4
Working persons	10,4
Including employees	8,7
of which self-employed, employers, self-employed in agriculture	19,7
Unemployed	22,1

Source: Information of the Department of Statistics under the Government of the Republic of Lithuania.

With a view to decreasing social exclusion (temporary residence institutions, rehabilitation institutions for drug-addicts, integration and rehabilitation of persons with various dependencies, other social services, risk group and socially supported persons), in 2004 LTL 39852 thousand was allocated, from them LTL 11483 thousand – from the state budget, LTL 28369 thousand – from the municipal budgets. In 2005 there were 22 lodging-houses with 2 thousand inhabitants in Lithuania. Besides, every day additionally 111 persons were provided with temporary (one night) shelter.

Last year about 1.7 thousand persons were provided with temporary accommodation in 17 crisis centres. Additionally 2,5 thousand persons received social services without accommodation in crisis centres (psychological advice, counselling etc.). About 0,4 thousand persons dependent on drugs were accommodated in 13 psychological and social rehabilitation centres. More than three fourths of persons, who received services in crisis centres, were women, meanwhile beneficiaries of services in social rehabilitation centres were mostly men.

Pursuant to the Constitution of the Republic of Lithuania, provisions of the Convention of the Rights of the Child of the UN, as well as to the Law of the Republic of Lithuania On Fundamentals for Protection of the Rights of the Child, children, irrespective of social status of their parents, shall be guaranteed free of charge medical aid and education. Social assistance in cash or privileges are granted taking into account income of a family.

The number of social risk families in 2005 comprised 16,4 thousand (in 2004 – 16,9 thousand) and the number of children in them totalled to 37 thousand (i.e. 4,4% of the total number of children residing in Lithuania). One of the major negative factors influencing quality of life is low income. Therefore the state takes efforts to support families raising children and citizens receiving low income. During the recent years state supported income (SSI) was increased 3 times. Since 1 October 2005, the SSI was by 20LTL, i.e. from LTL 135 to LTL 155; since 1 February 2006, SSI was increased by LTL 10 – up to LTL 165; and from 1 October 2006 SSI was increased by LTL 20, i.e. up to LTL 185 to a person per month. Consequently social allowances to low-income families and a minimum social insurance benefit to the unemployed registered in the labour exchange, have also increased; more school pupils were entitled to free of charge meals at schools; compensations for heating of housing have also increased at the beginning of the heating period.

Alongside the increase of the state supported income (SSI), the amount of social allowance to persons not receiving any income, has increased during a month from LTL 121,5 to LTL 166,5. Free of charge meals were granted to children from families, where the income per one person of a family is lower than LTL 277,5 (used to be 202,5 LTL). It is not the first year when free of charge meals are organised for children from disadvantaged families. For the above purpose LTL 61 million has been allocated annually. Currently free of charge meals are provided to about 121 thousand pupils (22% of the total number of pupils of comprehensive schools), and 4% of pupils are provided with free of charge lunch and breakfast.

Funds from the state budget are mostly allocated for preparation for a new school year to children from the most disadvantaged families. Each year this sum has been increasing: this year - LTL 8 million, in 2005 – LTL 2 million, in 2004 – LTL 1 million. This year 79 thousand children received relevant support (on average LTL 104 per child).

With a view to regulating the issues related to free meals and provision of schooling materials to pupils, this year the Law On Social Assistance to Children from Disadvantaged Families has been adopted. By this law, provision of free meals has been legally regulated and a new type of social assistance to children from disadvantaged families legalised, i.e. the support for getting prepared for school. The law will come into force on 1 January 2007. The price of free of charge lunch per day will increase to LTL 3,25 (used to be LTL 3) and the price of free of charge breakfast – to LTL 1,5 (used to be LTL 1,2). Besides the price will be related to the amount of MLS (Minimum Living Standard). This means that the amount will be indexed referring to the inflation rate. This will secure appropriate meals to children, corresponding with the requirements of healthy nutrition. Each child from a disadvantaged family will be able to receive up to LTL 150 for purchasing of schooling materials. This support will be provided to about 15% of all the pupils and will enable pupils from disadvantaged and social risk families to attend schools and improve financial (material) situation of families.

The Seimas is currently considering amendments to the Law On Social Assistance in Cash to Disadvantaged Families and Single Residents, by which it is suggested to

create more favourable conditions to receive social assistance in cash; to increase compensations for heating of housing because of increasing prices for utility services; to give more rights to municipalities in providing assistance to families. During the 1st quarter of 2006, approximately 100 thousand persons received monthly compensations for heating (about 4% of population of the country). Social allowance has been entitled to 43 thousand citizens (1,3% of population of the country).

With a view to protecting children from social risk families and ensuring the appliance of allowances for their needs, the laws regulating assistance stipulate that benefits to social risk families shall be entitled pursuant to the procedure established by municipal councils. Most frequently special commissions consisting of representatives of various spheres are established. The commissions make a decision on whether a family should be considered a social risk family and selects the way of payment of benefits. A council of each municipality establishes and approves the Procedure for Entitlement of Benefits to Social Risk Families. This helps to maintain discipline in families and ensures that benefits entitled to a child have actually reached that child.

It should be noted that the right to social housing, which is established by the Law on State Aid to Acquiring or Hiring Housing or Modernising Multi-family Apartment Houses of the Republic of Lithuania, as well as compensations paid by the state for heating of housing, hot and cold water and sewage removal, which are established by the Law on Social Cash Assistance to the Low-Income Families (Living Alone) of the Republic of Lithuania, should be attributed to the measures, which could put a stop to social exclusion. However, the assistance provided with respect to housing is not sufficient to completely put a stop to social exclusion.

Fight against poverty was commenced before Lithuania's integration into the European Union. In the year 2000 The Poverty Reduction Strategy in Lithuania was developed on the basis of which the Programme for the Implementation of the Poverty Reduction Strategy was devised.

Lithuania joined the process of reducing poverty and social exclusion of the Community in 2002, after it had signed the Agreement Memorandum with the European Commission. According to this document and on the basis of the provisions of the Accession Partnership, the Government of the Republic of Lithuania, in co-operation with the European Commission, prepared the Joint Inclusion Memorandum. Thereby this document Lithuania undertook to include general objectives of fight against poverty and social exclusion of the European Union in the country's policy and defined the main spheres of policy, as well as undertook to draw up the National Action Plan for Fight against Poverty and Social Exclusion, and it was devised in 2005.

In the National Action Plan Lithuania listed its commitments to undertake comprehensive actions covering various spheres (employment, education, health care, social security, etc.) to improve the condition of the weakest groups of the population, to increase their possibilities and to reduce their poverty and social exclusion, at the same time taking into consideration a different situation, problems and needs of females and males.

In 2005 this plan was updated by rendering it more concrete and specifying the responsible executives, terms of its implementation and the funds planned for carrying out the measures in more detail. Lithuania undertakes to take measures, which would help co-ordinate the policy and actions devoted to fight against poverty

and reduction of social exclusion. With this end in view it is planned, when implementing the state policy in relevant spheres, to take into consideration the objectives of social inclusion and seek to achieve that the state funds, as well as structural funds of the European Union, should be efficiently applied in supporting the achievement of these objectives. It is sought to engage the entire civil society in these processes, special attention is paid to co-operation with social partners and non-governmental organisations at all stages of the activity.

In implementing the said plan several of the many measures devoted to the reduction of poverty and social exclusion deserve mention. The Ministry of Social Security and Labour, in co-operation with the Ministry of Culture, organises the campaign *May is the Month Without Violence against Children*. (The National 2005-2007 Programme of Prevention of Violence against and Help to Children approved by Resolution No. 491 of the Government of the Republic of Lithuania of 4 May 2005 (*Official Gazette No. 58-2021, 2005*)). Thereby this measure it is sought to develop society's tolerance to violence against children, to organise legal education of society.

The Ministry of Culture, together with the Ministry of Social Security and Labour, the State Council of Youth Affairs, by way of tender supports projects of cultural activities of non-governmental organisations intended for strengthening interaction of interests of creative work of artists of different age and various social groups of society. In this way it is sought to provide various groups of society with the possibility to take part in cultural life, more active communities, their greater employment; it is sought to open up greater possibilities to vulnerable persons to participate in cultural life, to reveal their capabilities. Moreover, one of the main financing criteria in different tender programmes for partial financing is to support cultural projects devoted to the persons living under the conditions of poverty and social exclusion. As far as competence of the Ministry of Culture permits, cultural services of some cultural institutions provided to pensioners, the disabled are free of charge, privileges of another nature are also applied to the latter social groups, as well as other low-income groups, for example, the youth, etc.

With a view to creating social conditions for increase of employability in the territories with high unemployment rate, and to decreasing economic social development disparities of regions, the Ministry of Economy, together with other public institutions, implemented general measures for solving economic and social measures of the Resolution No 529 of the Government of the Republic of Lithuania of 8 May 2001 On Approval of the Programme of the Republic of Lithuania for Increasing Employment in 2001-2004 (*Official Gazette, 2001, No 40-1404*). The above measures for Druskininkai city, Mažeikiai, Pasvalys, Akmenė and Lazdijai districts have been approved by resolutions of the Government of the Republic of Lithuania.

With a view to improving the environment of small and medium business (SMB), reducing poverty by developing entrepreneurship skills of the most vulnerable persons in the labour market, the Government of the Republic of Lithuania has approved, by its Resolution No 1104 of 19 October 2005 (*Official Gazette, 2005, No 126-4491*), the Trends for the Development of Small and Medium Business until 2008, together with the Measures for the Development of Small and Medium Business for 2005-2008. Four major trends for the development of SMB have been specified: development of legal and economic environment of SMB, improvement of financial support to SMB entities, promotion of entrepreneurship in regions and promotion of competitiveness of SMB.

With a view to promoting the demand for tourism services, the Ministry of Economy established public tourism infrastructure which is currently further developed. Rural

tourism is considered as the most rapidly developing sector of social services in Lithuania, and this influences the increase of employment in the country, establishment of the craft information-reservation system and establishment of new working places. This could increase employability and income of citizens of the rural area of Lithuania and, consequently, reduce poverty. For instance, the increase of the number of rural tourism homesteads is currently the biggest within the entire sector of tourism settlement. In 2000 the number of rural tourism homesteads totalled to 69, while in July of 2006 – to 520.

Referring to the specifics of the region in considering economic and social problems of the decommissioning of operations of the Ignalina Nuclear Power Plant, the Ministry of Economy, together with the Ministry of Social Security and Labour, has elaborated the plan of measures for implementation of the Project of decommissioning of operations of 1st and 2nd units. The plan includes special employment and social guarantees which will facilitate mitigation of consequences of the dismissal of workers of the Ignalina Nuclear Power Plant and their integration into the labour market.

In September 2006 Lithuania prepared the National Report about the Strategies for Social Security and Social Inclusion for 2006-2008 of Lithuania, and submitted it to the European Commission To implement these strategies Lithuania prepared Tasks and Measures for Reducing Poverty and Social Exclusion. Funds for the implementation of these measures, as well as responsible executors and the anticipated results, have been planned. The said strategies and measures were developed in co-operation with social partners and non-governmental organisations, which take an active part in the implementation of these measures.

While implementing the provisions of the Lisbon Strategy Implementation Programme, approved by the Resolution No 1270 of the Government of the Republic of Lithuania of 22 November 22, efforts will be made to retain rapid growth of economy of the country, to increase competitiveness of industry and business and to reduce structural unemployment. This will provide for a possibility to more efficiently solve problems of poverty and social exclusion of the country.

Since 2001 in Lithuania free of charge legal advice is provided and guaranteed by the state to citizens of the Republic of Lithuania and other EU Members States, as well as to other persons lawfully residing in Lithuania and in the EU Member States. On the basis of the provided free of charge legal advice, persons have an opportunity to properly protect their violated or disputable rights and interests protected by the law; moreover, efforts are made to secure application of legal laws of the European Union (EC Directive 2003/8/EC).

Initial and secondary legal support is provided. The initial legal support (legal information, legal counselling and advice, and elaboration of documents of legal character to public and municipal institutions etc.) is organised and rendered by municipal institutions. In order to get initial legal support, it is not necessary to declare your income and property. Initial legal support shall be provided immediately, when a person applies to an executive municipal institution. If there is no possibility to provide initial legal support immediately, an applicant shall be informed on the reception time, which shall take place no later than 5 days after the day of submission of an application. In case if during the provision of the initial legal support it becomes clear that an applicant will need secondary legal support, a person providing initial legal support, shall help an applicant to write (or writes himself/herself) an application on provision of secondary legal support.

Secondary legal support (elaboration of documents, protection and representation in trials, including execution process etc.) is provided to persons, when their property and annual income do not exceed the levels of property and income established by the Government of the Republic of Lithuania on a receipt of the above advice pursuant to this law. The law also indicates the persons, to whom secondary legal support shall be provided irrespective of their property and income, for instance, victims applying for damage compensation due to criminal acts, persons having the right to social allowance or persons maintained by the state in residential care institutions and some other persons. State guaranteed free of charge legal advice shall be provided not only in criminal, but also in civil and administrative cases

Conclusion

Despite the fact that poverty reduction programmes have been put in place, the poverty rate in Lithuania is still considerably high and implementation of efficient measures in certain areas are lacking. Therefore, this provision cannot be accepted at present.

Article 31 – The right to housing

3. With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed to make the price of housing accessible to those without adequate resources.

ECSR Case-law presented by Ms KARL

An adequate supply of affordable housing must be ensured.

Housing is affordable if the household can afford to pay initial costs (deposit, advance rent), current rent and/or other housing-related costs (e.g. utility, maintenance and management charges) on a long-term basis while still being able to maintain a minimum standard of living, according to the standards defined by the society in which the household is located.

States must:

- adopt appropriate measures for the provision of housing of an adequate standard;
- introduce housing benefits at least for low-income and disadvantaged sections of the population. Housing allowance is an individual right: all qualifying households must receive it in practice; legal remedies must be available in case of refusal.

Situation in Lithuania

The Law of the Republic of Lithuania On State Support to Acquire or Rent of Housing and Modernisation of Multi-Apartment Building stipulates that development of the municipal social housing fund shall be financed from the state budget target appropriations and municipal funds. It is envisaged, while increasing this housing fund, to provide housing to households with medium and small income. Pursuant to the above law and while implementing the Lithuania Housing Strategy, approved by the Resolution No 60 of the Government of the Republic of Lithuania of 21 January 2004, target appropriations of the state budget are envisaged and increased annually for the development of the municipal social housing fund. The amount of the social housing rent shall be established by municipal institutions, pursuant to the procedure for calculation of the rent tax for the state and municipal dwelling facilities.

Pursuant to the above law, state support is provided for acquisition of the first housing (purchasing or construction). This support is restricted by the household income and property, the maximum amounts of which shall be defined by the Government. The above support is provided by covering (from the state budget) part of the housing credit insurance contributions in case if a beneficiary of a credit wishes to get housing credit (up to 5%) by a reduced initial contribution and insures this credit in the Housing Loans Insurance Company established by the Government. Up to 20% of the housing credit (by means of a subsidy) is covered for certain social groups – the disabled, orphans until they reach the age of 35; large families raising three or more children and young families raising children. However, the price of acquiring housing, especially in large cities, is accessible only to the households earning high income.

The right to housing of a certain standard of persons with low income is considered. Seeking to raise the possibilities for the households, which derive small and average income, to provide themselves with housing, the sector of social housing is developed, assignments from the state and municipal budgets are allocated to this

purpose. The Programme for the Development of Social Housing Fund for 2004-2006 was approved by the Resolution No 708 of the Government of the Republic of Lithuania. For implementation of this programme the sum allocated from the state budget in 2004 comprised LTL 15 million, in 2005 – LTL 20 million and in 2006 – LTL 30 million. This programme will be continued and in 2007 it is anticipated to allocate LTL 50 million. It is sought to create conditions for the development of the leased housing for non-profit purposes.

The Law on Residents' Income Tax stipulates certain privileges in covering or compensating the credit costs for acquisition and refurbishment (modernisation) of housing. According to paragraph 3 of Article 21 of the Law of the Republic of Lithuania approved on 2 July 2002 On Residents' Income Tax, a permanent citizen of Lithuania can deduct the interest from the taxable income received during the taxing period (calendar year), paid to the Bank or other credit institutions for the credit taken for the construction or acquisition of housing. A citizen regarded as a permanent citizen of Lithuania is defined in part 1 of Article 4 of the above law (i.e. a natural person, whose permanent place of residence during the taxing period is in Lithuania, or the place of personal, social or economic interests of whom during the taxing period is more probably in Lithuania than abroad.)

The sum of the deducted interest together with other costs allowed to be deducted and defined in part 1 of Article 21 of the above law (life insurance contributions, pension contributions to pension funds, contributions for studies and costs related to acquisition of PC with software) cannot exceed 25% of the taxable income received by a permanent resident of Lithuania during the taxing period. A Citizen can deduct costs from income after the end of the taxing period and shall submit, by 1 May of the calendar year following that taxing period, the yearly income tax declaration to the tax administrator. Besides, the Housing Strategy of Lithuania was approved by the Resolution No 60 of the Government of the Republic of Lithuania of 21 January 2004. The period of implementation of its provisions is until 2020.

Conclusion

As the possibility to access social housing of an adequate standard for persons of low-income still represents an unresolved problem, this provision cannot be accepted at present.