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SECOND REPORT ON LITHUANIA

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Foreword

The European Commission against Racism and Intolerance (ECRI) is a body of the Council of Europe, composed of independent members. Its aim is to combat racism, xenophobia, antisemitism and intolerance at a pan-European level and from the angle of the protection of human rights.

One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.

At the end of 1998, ECRI completed the first round of its country-by-country reports for all member States. ECRI's first report on Lithuania is dated 7 June 1996 (published in September 1997). The second stage of the country-by-country work, initiated in January 1999, involves the preparation of a second report on each member State. The aim of these second reports is to follow-up the proposals made in the first reports, to update the information contained therein, and to provide a more in-depth analysis of certain issues of particular interest in the country in question.

An important stage in ECRI's country-by-country work is a process of confidential dialogue with the national authorities of the country in question before the final adoption of the report. A new procedure in the second round of country reports is the organisation of a contact visit for the ECRI rapporteurs prior to the drafting of the second report.

The contact visit to Lithuania took place on 13-16 May 2002. During this visit, the rapporteurs met with representatives of various ministries and public administrations responsible for issues relating to ECRI's mandate. ECRI warmly thanks the Lithuanian national authorities for their wholehearted co-operation in the organisation of the contact visit, and in particular would like to thank all the persons who met its delegation each of whom provided much valuable information on their own field of competence. ECRI would also like to thank the Lithuanian national liaison officer whose efficiency and collaboration were much appreciated by ECRI's rapporteurs.

Furthermore, ECRI would like to thank all the representatives of non-governmental organisations with whom its rapporteurs met during the contact visit for the very useful contribution they made to the exercise.

The following report was drawn up by ECRI under its own responsibility. It covers the situation as of 28 June 2002 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposals made by ECRI.

Executive summary

Lithuania has taken positive steps over recent years which are relevant to combating racism and intolerance. These include the ratification of a number of international legal instruments of importance for combating racism and racial discrimination and the adoption of a programme aimed at promoting the integration of the members of the Roma/Gypsies communities into Lithuanian society. Lithuania has also granted to non-citizen permanent residents eligibility and voting rights in elections to local self-government bodies. Furthermore, the debate around the possible extension of the mandate of the Equal Opportunities Ombudsman to cover issues related to other grounds than gender is noted with interest as an opportunity to enhance the protection of persons living in Lithuania from racism and racial discrimination.

However, problems of racism and intolerance persist in Lithuania and are particularly acute *vis-à-vis* the members of the small Lithuanian Roma/Gypsy community, although they also concern asylum-seekers and refugees, notably Chechens and Afghans. The existing legal provisions and regulations aimed at countering manifestations of racism and racial discrimination, including in the media, are not always adequate to address these phenomena and are rarely applied. This situation reflects a lack of adequate awareness within Lithuanian society as a whole of the existence of racial prejudice and discrimination in the country, of the ways in which these phenomena manifest themselves and of the need to combat them.

In the present report, ECRI recommends that the Lithuanian authorities take action in a number of fields. These recommendations cover, *inter alia*: the need to address a certain number of issues connected to asylum seekers and refugees; the need to improve the situation of the Roma/Gypsy population, based on the attentive consideration of the genuine needs and choices of the communities concerned; and the need to fine-tune the relevant legislation, including through the adoption of more comprehensive anti-discrimination civil and administrative legal provisions.

SECTION I: OVERVIEW OF THE SITUATION

A. International legal instruments

1. Lithuania has ratified different international legal instruments relevant in the field of combating racism and intolerance. As recommended by ECRI in its first report, Lithuania ratified, in December 1998, the International Convention on the Elimination of All Forms of Racial Discrimination; in March 2000, the Framework Convention for the Protection of National Minorities; and, in June 2001, the European Social Charter (revised). The Lithuanian authorities are currently examining the possibility of accepting Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, which allows individual communications to be considered by the Committee for the Elimination of Racial Discrimination. ECRI strongly encourages the Lithuanian authorities to accept this article. As concerns the European Social Charter (revised) ECRI welcomes the fact that Lithuania has made a declaration whereby it considers itself bound by certain provisions of the Charter, including some of the provisions contained in Article 19, which concerns the right of migrant workers and their families to protection and assistance. However, other provisions of Article 19 have not been accepted by Lithuania and ECRI encourages the Lithuanian authorities to consider accepting these provisions as well.
2. The Lithuanian authorities have stated that the necessary work for the signature and ratification of the Additional Protocol N°12 to the European Convention on Human Rights is currently underway. ECRI encourages the Lithuanian authorities to complete this process and ratify the Protocol as soon as possible.
3. The Lithuanian authorities have also stated that they have started work in view of the signature and ratification of the European Charter for Regional or Minority Languages, the ratification of which ECRI recommended in its first report. ECRI reiterates its call for a prompt ratification of this instrument by Lithuania.
4. ECRI furthermore encourages the Lithuanian authorities to sign and ratify the UNESCO Convention against Discrimination in Education, the European Convention on Nationality, the Convention on the Participation of Foreigners in Public Life at Local Level and the European Convention on the Legal Status of Migrant Workers.
5. According to Article 138 of the Constitution of Lithuania, international agreements ratified by the Parliament are a constituent part of the domestic legal system and can therefore be applied directly in courts. The Lithuanian authorities have stated that the practice in Lithuania is not to ratify international instruments until domestic legislation has been brought into conformity with their provisions. If, however, statutory law is found to contradict the provisions of a ratified international instrument, the provisions of the international instrument prevail. It is not clear to ECRI, nonetheless, whether a ratified international instrument would prevail in case of conflict with the Constitution.

B. Constitutional provisions and other basic provisions

6. Lithuania has a solid constitutional basis for the fight against racism and intolerance. Article 29 of the Lithuanian Constitution contains the principle of equality of all persons before the law, the courts and other State institutions and officers. This article also prohibits discrimination -- defined as restriction of rights or guarantee of privileges on grounds of sex, race, nationality, language, origin, social status, religion, convictions, or opinions -- in respect of all persons. The Law on the Legal Status of Aliens in the Republic of Lithuania stipulates that all foreigners are equal before the law, regardless of their race, sex, colour, language, religion, political or other convictions, national or social origin, their belonging to a national minority, their property, place of birth or any other status.
7. Article 25 of the Lithuanian Constitution defines the limits of freedom of expression by providing that such freedom is incompatible, *inter alia*, with incitement to national, racial, religious or social hatred.
8. Article 119 limits to citizens the right to vote in elections to local government Councils. ECRI is pleased to note that the Parliament has adopted an amendment to this Article granting eligibility and voting rights to all permanent residents, irrespective of their citizenship, in these elections.

- Citizenship law

9. In 1989, the Lithuanian government adopted a first law on citizenship, which enabled all permanent residents of the country to obtain Lithuanian citizenship if they made a request in this sense in the two years following the coming into force of the Law. The great majority of residents, including more than 90% of persons of non-Lithuanian ethnic origin, obtained Lithuanian citizenship in this way. In 1991, the Parliament adopted another law on citizenship which was modified in July 1997. According to this law, applicants for naturalisation are, *inter alia*, required to : have resided for 10 years in the country ; have permanent employment or another stable source of income ; pass a language and Constitution test. Apart from persons who are naturalised, Lithuanian citizenship is also granted to persons whose families lived in Lithuania up to June 1940.
10. Although no precise figures are available, a few hundred Roma/Gypsies failed to apply for citizenship before the two-year deadline due mainly to lack of awareness, and, unable to fulfil the more stringent requirements imposed by subsequent legislation, remain without citizenship today. The Lithuanian authorities have stated that these persons possess residence permits. They have also stated that they help Roma/Gypsies collect the necessary documents to prove their families' residence in Lithuania in June 1940. However, as already suggested in its first report, ECRI considers that additional measures should be taken to facilitate access to citizenship for those Roma/Gypsies who have lived in Lithuania for a long time and who are nevertheless without Lithuanian citizenship¹.

¹ See below, Section II - the situation of the Roma/Gypsy communities

- **Legislation on National Minorities**

11. The 1989 Law on National Minorities, which was amended in 1991, prohibits in its Article 1 any discrimination with regard to race, ethnicity or nationality, language or any other ground related to ethnicity, and provides that any such discrimination shall be punished under the procedures provided for by the laws of Lithuania. Article 2 of the Law stipulates that Lithuania shall guarantee national minorities a series of rights, including: the right to obtain aid from the state to develop their culture and education; the right to have schooling at all levels, from pre-school to higher education, in their native languages; the right to be represented in government bodies at all levels; and the right to have newspapers and other publications and information in their native languages. ECRI welcomes these provisions and, as highlighted in different parts of this report², encourages the Lithuanian authorities to ensure their thorough implementation.
12. In light of new international obligations incurred since 1989, including those resulting from accession to the Framework Convention for the Protection of National Minorities, the Lithuanian authorities are currently in the process of drafting a new piece of legislation on national minorities. ECRI encourages the Lithuanian authorities to finalise this process as soon as possible.

C. Criminal law provisions

13. Article 72 of the Criminal Code currently in force prohibits discrimination, *inter alia*, on grounds of gender, race, nationality, language, origin and religion. However, discrimination against persons identified by these grounds is defined as acts aimed at interfering with their right to participate, as equals of other persons, in political, economic, social, cultural and labour or other activity or at restricting their human rights and freedoms.
14. Article 72 (1), which was introduced in August 2000, prohibits public, oral or written statements which ridicule, express contempt of, or incite to hatred towards a person or a group of persons on account of, *inter alia*, their race, nationality, language, origin and religion. Article 72 (1) also punishes public advocacy of violence or physical harsh treatment of such persons or groups of persons and provides for increased penalties, if such conduct results in the death of a person or has other serious consequences. Article 71 provides for criminal liability for genocide.
15. The new Criminal Code – which has already been adopted but which will enter into force in January 2003 – contains similar provisions to the Criminal Code currently in force. However, in neither the legislation currently in force nor in the new Criminal Code are there provisions explicitly considering racist motivation of common offences as a specific aggravating circumstance. ECRI encourages the Lithuanian authorities to introduce such provisions.
16. ECRI notes that no cases have been brought under Article 72 and 72 (1) since these articles entered into force in 1995 and August 2000 respectively. However, noting reports of cases of discrimination and racist expressions, ECRI

² See *Access to public services – Access to education, and Media*

believes that this lack of cases brought does not reflect the actual situation in Lithuania. ECRI encourages the Lithuanian authorities to provide specific training on the relevant provisions against racial discrimination and racist expression to all actors involved in the criminal justice system, from the police to the prosecuting authorities and the courts, with a view to raising their awareness of the need to actively pursue all such cases. As concerns more specifically discrimination, ECRI stresses that the adoption of comprehensive civil and administrative legal provisions would also be essential to effectively counter this phenomenon³.

D. Civil and administrative law provisions

17. The constitutional principle of equal treatment and non-discrimination is reiterated in a number of laws, such as the Law on Education, the Law on Employment Contract, the Law on Wages and the Law on Public Organisations. However, no comprehensive civil and administrative legal provisions against discrimination exist expressly prohibiting racial discrimination in different fields of life such as education, employment, housing, access to public and social services and public places and contractual relations between individuals, and providing for effective mechanisms of enforcement and redress. ECRI encourages the Lithuanian authorities to consider the adoption of such provisions. ECRI furthermore believes that the debate around the adoption of this legislation would stimulate research into the phenomena of discrimination, and the extent to which it may be present in Lithuania, as there appears to be a lack of awareness of this issue in society in general.
18. ECRI notes that Lithuania already possesses a body of legislation -- the Law on Equal Opportunities -- promoting gender equality and prohibiting discrimination on the basis of gender. It also notes that the possibility of extending the mandate of the Equal Opportunity Ombudsman, who is responsible *inter alia* for supervising the implementation of such legislation, in order to cover other grounds than just gender, is currently a subject of public debate⁴. As an initial step towards the establishment of comprehensive civil and administrative legal provisions against discrimination, ECRI encourages the Lithuanian authorities to study the possibility of extending the scope of the existing equal opportunities legislation to grounds such as race, colour, language, religion, nationality and national and ethnic origin.

E. Administration of justice

19. All non-Lithuanian speaking participants in legal proceedings have a right to an interpreter. However, since interpreters in certain languages are not always available, it has been reported that members of minority groups who do not speak Lithuanian may be disadvantaged in legal proceedings. Foreigners appear to be particularly vulnerable in this respect. ECRI invites the Lithuanian authorities to address this situation.

³ See below, *Civil and administrative law provisions*

⁴ *Specialised bodies and other institutions*

- **Legal aid**

20. In March 2000, the Parliament adopted the Law on State Guaranteed Legal Aid. This law sets up a system of publicly-funded legal aid for people with insufficient means and for those to whom legal aid should be provided in accordance with Lithuania's international legal obligations. Free legal aid covers civil, administrative and criminal cases, and benefits citizens of the Republic of Lithuania as well as foreign nationals and stateless persons.

F. Specialised bodies and other institutions

21. At present there is no specialised body to combat racism and racial discrimination in Lithuania. There are three Ombudsmen's Offices: the Parliamentary Ombudsmen, an Equal Opportunities Ombudsman and a Children's Rights Ombudsman.
22. The mandate of the Parliamentary Ombudsmen is to investigate citizens' complaints concerning the abuse of office and bureaucracy of officers of state and local government and administrative institutions, military and other institutions. All persons have the right to file complaints with the Parliamentary Ombudsmen. The Ombudsmen have unrestricted rights to access and investigate those bodies falling within their jurisdiction, with assistance from the police if required. On discovering a violation or abuse of office, the ombudsmen may bring court actions against the offender or recommend legislative amendments. They may also recommend to the prosecutor that material be prepared for instituting civil proceedings if they establish that there has been a violation of the interests of persons possessing limited possibilities to protect their rights. The Office is required to submit an annual report to the Parliament.
23. As yet, no complaints of discrimination on the basis of race, colour, language, religion, nationality, national or ethnic origin have been filed with the Parliamentary Ombudsmen's Office. However, the Office of the Parliamentary Ombudsmen has stated that it examines seriously the possible discriminatory dimensions of all complaints. The Office has also stated that there have been cases filed by foreigners, but that it has so far not found for any case of discrimination.
24. The Office of the Equal Opportunities Ombudsman supervises the implementation of equal rights and opportunities for women and men laid down in the Constitution, the Law on Equal Opportunities as well as other legal acts. It investigates possible cases of discrimination at the request of a person or at its own initiative; supervises how the Law on Equal Opportunities is implemented by governmental and administrative institutions, educational institutions and employers; monitors the presence of discriminatory advertisements in the mass media; may formulate recommendations for the revision of legislation and for the establishment of priorities in the field of promoting equal rights; and may impose administrative fines.
25. In the year 2001-2002, the Equal Opportunities Ombudsman has carried out 73 investigations. ECRI notes with interest that, as part of a National Action Plan for the Protection of Human Rights, an ongoing project carried out in partnership with the United Nations Development Programme aims at expanding the mandate of the Equal Opportunities Ombudsman to cover

additional grounds of discrimination other than gender. The need for expansion of the mandate as well as the identification of the grounds to be added are to be decided upon taking into account relevant international experience and the results of consultations with civil society. ECRI strongly encourages the Lithuanian authorities to extend the mandate of the Equal Opportunities Ombudsman and to include race, colour, language, religion, nationality and national or ethnic origin within the list of grounds to be added. In this respect ECRI draws the attention of the Lithuanian authorities to its general policy recommendation n°2 on “specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level”. If the mandate of the Equal Opportunities Ombudsman were to be extended, ECRI stresses the importance of making adequate resources available to that body in order to enable it to fulfil its new mandate effectively.

26. With the adoption of the 1989 Law on National Minorities, a specialised Department of Regional Problems and National Minorities was founded within the government with the task of defusing tensions that could lead to conflict by, *inter alia*, guaranteeing an official response to minority demands. On 1 January 1999, the Department's competencies were broadened when it was re-organised into the Department of National Minorities and Lithuanians Living Abroad (DNMLLA). The mandate of the DNMLLA includes: assuring the implementation of national and international legal obligations with regard to national minorities; proposing and preparing programmes and policies to ensure harmonious inter-ethnic relations; conducting research regarding the sociological and demographic situation of minorities and public opinion on minorities; and maintaining contact with certain state and public authorities and international organisations in foreign countries. The DNMLLA oversees the implementation of government policy toward minorities, including through the allocation of funding to support the activities of minority organisations, and monitoring of the implementation of special programmes such as the “Programme for the Integration of Roma into Lithuanian Society 2000-2004”⁵ and the “Programme for Social and Cultural Integration of National Minorities”. ECRI encourages the Lithuanian authorities to ensure that adequate resources are made available for the implementation of these programmes.
27. A Council of National Communities was established within the DNMLLA in 1995. The Council is composed of representatives of 18 national communities and is charged with co-ordinating the activities of national minority communities, maintaining harmonious inter-ethnic relations in Lithuania and overseeing participation in the implementation of state minority policy. The Council is meant to afford minority representatives the opportunity to meet the authorities in order to raise social, educational and other issues of importance to their communities, and to participate in drafting legislation and monitoring its implementation. In recent years, it has also become a tradition for the Council to meet with the President of the Republic of Lithuania to exchange views on the situation of national minorities in the country. As will be mentioned below, ECRI encourages the Lithuanian authorities to ensure that the consultation process is thorough in respect of all national minorities when addressing questions of relevance for these communities⁶.

⁵ See below, Section II - the situation of the Roma/Gypsy communities

⁶ Section II - the situation of the Roma/Gypsy communities

G. Education and training/awareness-raising

28. Civic education is compulsory in secondary schools in Lithuania. The Lithuanian authorities have stated that civic education courses contain elements of human rights education. ECRI encourages the Lithuanian authorities to consider strengthening the human rights dimension of the civic education courses, with particular emphasis on non-discrimination and respect of difference. It considers that, in the long term, the teaching of human rights should also be made compulsory at the primary and secondary level. ECRI also encourages the authorities to ensure that teachers are well trained in these subjects.
29. The development of the human rights dimension also requires a regular review of school curricula and textbooks for all subjects. ECRI notes that there are initiatives aimed at integrating human rights in the curricula of all subjects and encourages the Lithuanian authorities to continue and extend such initiatives. The Lithuanian authorities have also stated that textbooks are reviewed to ensure that they do not perpetuate prejudice and stereotypes.

H. Reception and status of non-citizens

30. See Section II of this report (Issues connected to asylum seekers and refugees).

I. Access to public services

- Access to education

31. Since the restoration of independence of Lithuania, the number of pupils studying in Lithuanian-language schools and in Polish-language schools has steadily increased (by 28% and 95% respectively), while the number of pupils attending Russian-language schools has steadily decreased (by 45%). ECRI understands that an overall reform of the education system is currently being put in place in Lithuania; a new Law on Education has been drafted and will be soon discussed by the Parliament. Although ECRI is not aware of the details of the Law, it understands that the latter contains provisions relevant for minority-language schools. The Lithuanian authorities have stated that some exponents of the Polish minority are not satisfied with the provisions regulating the language of education in Polish schools. ECRI encourages the Lithuanian authorities to address these complaints in close consultation with the members of the Polish minority.

J. Employment

32. The Lithuanian employment legislation contains anti-discrimination clauses, for instance in the "Law on Employment Contracts" (Article 6.2), in the "Remuneration Law" (Article 1.2), in the "Law on Safety of People at Work" (Article 3), and in the "Law on Support for the Unemployed" (Article 1). Sanctions for the violation of these and other provisions are provided for in the Code of Administrative Violations (Article 41), in which case fines can be imposed by the State Labour Inspection, and in the Criminal Code, whose

Article 139 (Violation of Labour Laws) stipulates that the illegal dismissal of an employee based “on private intentions”, as well as other gross violations of labour laws, carried out by the employer or his/her representative, shall be punishable by a fine. ECRI has not been made aware of the application of these provisions to address alleged cases of discrimination on the basis of race, colour, language, religion, nationality and national or ethnic origin. However, ECRI considers that in Lithuania, as in most other European countries, there are groups whose members are vulnerable to labour market discrimination based on such grounds; as mentioned below, Roma/Gypsies appear to be particularly vulnerable in this respect⁷. ECRI stresses that employment should be one of the areas covered by the comprehensive body of civil and administrative anti-discrimination legislation suggested above⁸.

K. Vulnerable groups

This section covers certain minority groups which may be particularly vulnerable to problems of racism, discrimination and intolerance in the country in question. It is not intended to provide an exhaustive overview of the situation of all minority groups in the country, nor to imply that groups not mentioned face no problems of racism and discrimination.

- Roma/Gypsies

33. See Section II of this report (The situation of the Roma/Gypsy communities).

L. Antisemitism

34. The Jewish community of Lithuania numbers around 5,000 persons. Although manifestations of antisemitism are reported not to be prevalent within Lithuanian mainstream society, ECRI notes that public incidents of antisemitism have taken place. Such incidents include public antisemitic statements on the part of elected representatives, antisemitic articles which have appeared in a national daily newspaper, but also circulation of antisemitic leaflets, papers and other material, desecration of graves and memorial monuments, and manifestations of antisemitism at mass events. ECRI notes that in some cases there has been an institutional response to these manifestations. For instance, in the case of the publication of antisemitic articles, a criminal investigation was launched and action was taken by the Inspector on the Ethics of Journalists⁹. However, ECRI calls for the Lithuanian authorities to continue to monitor the situation and to strive to find and punish the persons responsible for acts of antisemitism.
35. At present, one of the main issues of concern of the Lithuanian Jewish community is the fact that the legislation in force in Lithuania regarding the restitution of property to the members of the Jewish community covers exclusively religious property. ECRI understands that modifications to the law

⁷ Section II, the situation of the Roma/Gypsy communities

⁸ See Civil and administrative law provisions

⁹ See below, Media

are currently being discussed and that this is being done in close consultation with the members of the Lithuanian Jewish community.

M. Monitoring the situation in the country

36. There appears to be a lack of information on the incidence of various forms of discrimination in Lithuanian society. This situation is at least in part connected with the non-use of the existing criminal, civil and administrative law provisions, as highlighted in different sections of this report. Information is also lacking on the real position of different groups in society across a number of fields of social and economic life, which would help uncover the presence of direct and indirect discrimination or situations of disadvantage. ECRI notes that in Lithuania there are neither legal nor practical barriers as regards the collection of statistical data broken down, for instance, by membership in an ethnic group. It considers that, in order to evaluate the evolving situation of minority groups in Lithuania, the Lithuanian authorities could consider improving the existing monitoring system by collecting data of this kind, with due respect to the principles of confidentiality and the voluntary self-identification of persons belonging to a particular group.

N. Conduct of law enforcement officials

37. ECRI understands that there have been no formal complaints of discriminatory behaviour on the part of Lithuanian law enforcement officials. However, as mentioned below¹⁰, there are reports that Roma/Gypsies are sometimes subject to actions of the police targeting all members of some Roma/Gypsy communities indiscriminately. Complaints of unlawful behaviour on the part of law enforcement officials, including racist or racially discriminatory behaviour, can be filed with the police itself or before the courts. Complaints can also be filed with the Office of the Parliamentary Ombudsmen, one of whose five representatives is entrusted with the examination of complaints regarding the police. Nevertheless, ECRI invites the Lithuanian authorities to consider the possibility of establishing an independent mechanism, separate from the police structures, for investigating allegations of police misbehaviour, including racist or racially discriminatory behaviour.
38. At the Police Faculty, human rights are both taught as a separate subject and integrated in other subjects. ECRI encourages the Lithuanian authorities to continue and expand their efforts to provide initial human rights training to police officers, with particular emphasis on equal treatment and on the right of each individual to be free from discrimination. ECRI furthermore recommends to the Lithuanian authorities to ensure that in-service training in these subjects is provided to the police, including through support of civil society initiatives in this field.

¹⁰ Section II, the situation of the Roma/Gypsy communities

O. Media

39. ECRI notes that the media, and particularly the press, have in some cases contributed to creating a negative image of certain groups within Lithuanian society, such as Roma/Gypsies and asylum seekers, notably Chechens. The members of these groups are almost exclusively depicted in articles about crime, often in a sensationalist way. As mentioned above, articles of an antisemitic nature have also appeared in the press.
40. The “Law on Provision of Information to the Public” prohibits the publication of material which incites to war, or to national, racial or religious hatred and enmity as well as the dissemination of information which is slanderous, insulting to a person or degrading to the personal honour and dignity of a person. Mechanisms to complain about this type of occurrence include the Commission on the Ethics of Journalists and Editors - a self-governed institution of producers and distributors which, alongside other functions, was recently given the right to investigate cases of incitement to ethnic, racial and religious hatred – and the Inspector on Journalists’ Ethics - a State Officer appointed by the Parliament upon the recommendation of the Commission on the Ethics of Journalists and Editors, entrusted with the examination of complaints of interested persons regarding violations of their honour and dignity committed through the mass media. The decisions of the Commission must be immediately published in the media found responsible; the Inspector may issue warnings, request rectifications to be published or apply to other competent authorities, including the Commission on the Ethics of Journalists and Editors. In addition, the Radio and Television Commission - an independent institution accountable to the Parliament – supervises the activities of commercial radio and television broadcasters and imposes warnings, fines and other penalties, including suspension and revocation of licenses, for breaches of the “Law on Provision of Information to the Public” or for non-compliance with the decisions of the Commission on the Ethics of Journalists and Editors. ECRI notes that the provisions of the “Law on Provision of Information to the Public” referred to above have hardly ever been applied to cases of articles concerning ethnic or national groups and calls for a more thorough implementation of these provisions. ECRI notes that there is an on-going reform of various media self-regulatory codes, including the Code of the Press, and hopes that this code will be reviewed to take into account the need to protect from negative stereotypes all minority groups within Lithuanian society.
41. As concerns access of national minorities to the media, ECRI notes that the time allocated to television programmes on issues relevant to national minorities or in their languages has decreased, a matter which the Council of National Communities is addressing at present with the Lithuanian television authorities. ECRI encourages the Lithuanian authorities to ensure that adequate time is allocated to these television programmes. ECRI also notes that some national minorities do not have newspapers in their language addressing topical questions for that minority in Lithuania. ECRI is not aware of complaints as concerns access of national minorities to the radio broadcasting system.

P. Extremism

42. The Law on Political Parties prohibits the establishment or activity of political parties or political organisations whose programme documents propagate or whose activities include racial, religious or societal inequality and hatred. Similarly, the Law on Public Organisations prohibits the establishment and the activities of organisations the goals or actions of which are aimed at inciting racial, religious and social dissent. ECRI notes that there have been cases where registration of political formations has been refused on the basis of these provisions. However, ECRI is concerned that there are political parties in Lithuania whose members have resorted to extreme nationalist or antisemitic statements. ECRI calls for a more effective implementation of the criminal law provisions prohibiting racist expression. ECRI also believes that a clear stance of mainstream political parties against all extremist groups would help the marginalisation of such groups, but also provide the necessary lead for law enforcement and civil society responses to extremism. In addition, the Lithuanian authorities may consider the adoption of provisions allowing for the partial or total suppression of public financing for those political parties whose members are responsible for breach of the criminal law provisions prohibiting racist expression.

SECTION II: ISSUES OF PARTICULAR CONCERN

In this section of its country-by-country reports, ECRI wishes to draw attention to a limited number of issues which in its opinion merit particular and urgent attention in the country in question. In the case of Lithuania, ECRI would like to draw attention to various aspects connected with asylum seekers and refugees and to the situation of the Roma/Gypsy communities.

Q. Issues connected to asylum seekers and refugees

43. Lithuania is a party to the United Nations Convention relating to the Status of Refugees of 1951 and to its 1967 Protocol. This Convention entered into force in respect of Lithuania in July 1997, at the same time as the first Law on Refugee Status of the Republic of Lithuania. A new Refugee law was adopted in June 2000 and amended in January 2002. This legislation is complemented by the Law on the Legal Status of Foreigners, which entered into force in July 1999 and provides for the possibility of granting temporary residence permits on humanitarian grounds *inter alia* to persons who do not meet the requirements of the Convention relating to the Status of Refugees, but who are found to be in need of international protection.
44. From July 1997 until 1 April 2002 Lithuania received just over 1,000 asylum applications. Since 2000, there has been a sharp increase in the number of these applications. At present, the majority of the persons applying for asylum in Lithuania come from the Chechen Republic of the Russian Federation (around 70%) and Afghanistan (around 22%), although there are also persons coming from India (2%) and Sri Lanka (2%) as well as other States (4%).
45. Applications for asylum may be made at the border and in the territory of Lithuania. Unaccompanied minors are accommodated in the Refugee Reception Centre in Rukla for the period of the examination of their application, unless their assigned guardian desires otherwise. If the Migration Department

at the Ministry of Interior considers the applicant admissible to the territory, the applicant must go to the Foreigners' Registration Centre in Pabrade. A decision is then taken by the Migration Department on the procedure (normal or accelerated) to be applied to the particular case. The Migration Department is the first instance for decisions on granting refugee status. Its decisions may be appealed before the Vilnius District Administrative Court, while a final decision may be taken by the High Administrative Court.

46. ECRI notes that, since the introduction of the possibility of granting temporary residence permits on humanitarian grounds to persons who do not meet the criteria of the refugee definition, there have been very few cases of recognition of refugee status. For example, in 2001, out of approximately 250 applications examined by the Migration Department, there have been no first instance decisions recognising refugee status and 192 decisions granting temporary residence permits on humanitarian grounds. ECRI calls on the Lithuanian authorities to ensure that all persons entitled to refugee status under the Convention relating to the Status of Refugees of 1951 actually secure such status.
47. There have been numerous reports that asylum-seekers on transit trains running between the main territory of the Russian Federation and its Kaliningrad enclave have been prevented by Lithuanian border guards from disembarking from the train and applying for asylum in Vilnius train station. ECRI expresses serious concern at these reports and strongly urges the Lithuanian authorities to ensure that all potential asylum seekers are able to access the asylum procedure in practice.
48. ECRI notes the considerable improvements which have taken place in recent years in the conditions of detention of asylum-seekers in the Foreigners Registration Centre in Pabrade, which now includes dedicated facilities for asylum-seekers, separate from those used for persons held in connection with the commission of criminal acts. ECRI also notes that the January 2002 amendments to the Refugee Law have introduced procedural guarantees concerning the detention of asylum seekers. However, in practice, there are reports of long delays, since October 2001, in the transfer of asylum seekers, coming notably from Afghanistan, to appropriate accommodation as well as reports of prolonged detention of minors. ECRI urges the Lithuanian authorities to investigate this situation and to take any necessary corrective action. The practical implementation of the provisions on detention of the amended Refugee Law is also affected by the lack of specific expertise within the courts of issues relating to asylum questions, a situation which sometimes reportedly results in asylum seekers being detained without the actual need for their detention having been examined. The Lithuanian authorities are encouraged to address this situation through awareness-raising measures aimed at the courts. ECRI also notes that there are no safeguards against automatic detention similar to those applicable to asylum seekers for persons who apply for residence permits on humanitarian grounds and encourages the Lithuanian authorities to address this question.
49. Lithuanian legislation also contains the possibility of refusing subsidiary protection (i.e. issuance of temporary residence permits) on national security and public order grounds. ECRI is concerned that this possibility may result in refoulement of persons in need of protection.

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50. Following the January 2002 amendments, the only ground for non-admission of an asylum-seeker to the territory of Lithuania is transit through a safe third country. However, ECRI believes that procedural safeguards relating to the admissibility procedure should be introduced. In all cases of negative decisions on the admissibility, adequate time should be available to the asylum-seeker to contact a legal representative and to file an appeal; furthermore the filing of an appeal should have a suspensive effect on deportation.
 51. As mentioned above, the Migration Department is responsible for decisions on the procedure (normal or accelerated) to be applied to individual asylum cases. It is reported that it is not possible to challenge such decisions before a court. ECRI encourages the Lithuanian authorities to address this question.
 52. The Refugee Law gives administrative courts the responsibility for examining appeals against first instance decisions on asylum cases. ECRI considers that there is a need to enhance the capacity of the courts to deal effectively with these new tasks and encourages the Lithuanian authorities to continue and expand their efforts in this respect.
 53. The Order on Social Integration of Foreigners Granted Asylum of 17 May 2001 entitles both refugees and persons granted subsidiary protection to benefit from state-funded social integration measures. However, Lithuanian social security and health care legislation provides social rights to permanent residents only, which results in persons granted humanitarian status being excluded from social security and health care schemes. ECRI expresses concern at this situation, especially in consideration of the fact that, as mentioned above, a large number of asylum applicants are granted humanitarian status.
 54. ECRI notes that the media profession has sometimes sensationalised incidents concerning asylum seekers and contributed to exacerbating negative stereotypes around these persons. ECRI stresses once more in this context the role of the media in promoting a tolerant society¹¹.

R. The situation of the Roma/Gypsy communities

55. According to official estimates, there are about 3,000 Roma/Gypsies in Lithuania. Although Roma/Gypsies live in different parts of Lithuania, the biggest community lives in Kirtimai, a neighbourhood in the outskirts of Vilnius. As is the case in many other European countries, the Roma of Lithuania face prejudice, disadvantage and discrimination in many areas of life, spanning from education to employment, housing, health, access to services, access to citizenship and relations with the police. These areas are analysed in more detail below.
56. In July 2000, the Lithuanian government adopted a "Programme for the Integration of Roma into Lithuanian Society 2000-2004" (henceforth, the Programme). The Programme acknowledges that the Roma communities face specific problems in some of the areas mentioned above and identifies state budgetary allocations for initiatives to be undertaken, in an initial phase, in the Kirtimai neighbourhood alone. These initiatives include the establishment of a

¹¹ See above "Media"

Roma Public Community Centre, the provision of Lithuanian language training, vocational training for the unemployed, legal education, a health assessment, programmes for the prevention of drug abuse and support for cultural activities. ECRI is pleased to note that the implementation of some of these initiatives, and notably the establishment and running of the Public Community Centre, has already started. ECRI welcomes the adoption of the Programme, which it considers as an important initial step towards the elaboration of a comprehensive strategy to improve the position of the Roma/Gypsy communities of Lithuania. It considers, however, that some elements of the Programme could be improved.

57. First of all, ECRI believes that much closer co-operation and involvement of the Roma/Gypsy communities is needed in the elaboration and evaluation of all policies concerning them. Roma/Gypsy representatives have complained that the Programme was drawn up without their participation and thus does not reflect the priorities and the perspectives of the Roma/Gypsy community. However, the Lithuanian authorities have stated that representatives of the Roma/Gypsy communities were consulted. ECRI believes that policies based on the attentive consideration by the authorities of the genuine needs and wishes of the communities concerned have better chances of success and promote social cohesion and the integration of these communities into society. It therefore encourages the Lithuanian authorities to closely involve Roma/Gypsy representatives in the evaluation phase of the Programme and in the development of its further stages, which will follow from the result of the evaluation. Secondly, although Kirtimai is the biggest Roma/Gypsy settlement in Lithuania, ECRI notes that the situation of the Roma/Gypsy population in other parts of Lithuania also deserves urgent attention. ECRI understands that it is foreseen that the second phase of the Programme, which is to start in 2005, will extend its initiatives to other regions of Lithuania and encourages the Lithuanian authorities to ensure that the Roma/Gypsy population of as many regions as possible benefit from these initiatives. Thirdly, ECRI notes that most of the efforts undertaken so far in the framework of the Programme have concerned the education of children and adult language courses. While acknowledging the pivotal role of these areas, ECRI stresses that a successful strategy to improve the situation of the Roma/Gypsy community must at the same time address different areas, including employment, health and housing. ECRI notes that the Programme itself recognises the interdependence of the social, economic, educational and health fields and encourages the Lithuanian authorities to ensure that such an integrated approach is taken in practice. In this respect, ECRI believes that societal prejudice represents one more interdependent field, which the Programme should address, notably by means of initiatives targeted at the majority population. Finally, ECRI feels that the Programme does not sufficiently take into account the role of discrimination in determining the disadvantaged situation of the Roma/Gypsy communities. ECRI stresses that an effective fight against discrimination should accompany efforts to improve the education, employment, health and other situations of the Roma/Gypsy communities.
58. The Lithuanian authorities have stated that about two thirds of Roma/Gypsy children of school age attend schools at present. Efforts are currently focused on ensuring that the attendance of these children is regular and that they continue education for as long as possible. One of the reasons explaining the disadvantaged position of Roma/Gypsy children in education is poor knowledge of the Lithuanian language and the fact that they often begin school later than

their non-Roma/Gypsy peers. One of the main activities of the Public Community Centre at the Kirtimai neighbourhood aims precisely to address these aspects by preparing Roma/Gypsy children to integrate mainstream schools. ECRI welcomes this initiative. However, it urges the Lithuanian authorities to ensure that the courses provided at the Centre are only preparatory courses, at the end of which children integrate mainstream schools. Attendance of preparatory classes for longer than strictly necessary should be avoided at all costs. Care should also be taken to ensure that only those children who need preparatory classes are put into these classes and that all other children are integrated immediately into mainstream schools. ECRI also encourages the Lithuanian authorities to make all possible efforts to integrate Roma/Gypsy children in the mainstream pre-school education system. More generally, in accordance with its general policy recommendation N°3 on “Combating racism and intolerance against Roma/Gypsies” ECRI strongly urges the Lithuanian authorities to vigorously combat all forms of school segregation, an aspect which appears to be of serious concern to the Roma/Gypsy communities. However, ECRI stresses that lack of language skills and pre-school knowledge constitute only a part of the problem and that it is very difficult to ensure regular and successful schooling of Roma/Gypsy children when their families are struggling with severe poverty, joblessness and poor health as well as prejudice from society at large, including school officials and non-Roma parents and children. ECRI stresses once more, in this context, the need for an integrated approach, as highlighted above. In addition, ECRI emphasises that it is important to train teachers in multiculturalism and prepare them to react to manifestations of prejudice or to abuses from other children. As recommended in its general policy recommendation N°3, ECRI furthermore encourages the Lithuanian authorities to include in the curricula of all schools information on the history and culture of Roma/Gypsies and to provide training programmes in this subject to teachers. Finally, ECRI encourages the Lithuanian authorities to adopt measures to facilitate the participation of Roma/Gypsies at levels of education beyond the primary level.

59. Lack of education and training also impact negatively on the employment possibilities of the members of the Roma/Gypsy communities. These possibilities are further limited by prejudice and discrimination on the part of potential employers. The vast majority of Roma/Gypsies are unemployed. Many of them are not registered with labour exchange offices. In some cases, this is connected to the fact that entitlement to unemployment benefits depends on having worked a certain number of hours and that Roma/Gypsies are rarely offered the opportunity of fulfilling this criterion. However, there have also been reports of labour exchange offices hindering registration of Roma/Gypsies. ECRI considers employment to be another priority area for government action. In this respect ECRI notes that the Roma Public Community Centre is organising vocational training in certain professions, which have been selected in consultation with the Roma/Gypsy communities. ECRI furthermore encourages the Lithuanian authorities to consider supporting the development of small businesses.
60. The health situation of the members of the Roma/Gypsy communities also testifies to their generally disadvantaged situation. Such disadvantage is linked to several factors such as poverty and unhealthy living conditions, but also reflects, in some cases, prejudice on the part of those providing the service. All inhabitants of Lithuania are covered by obligatory employer health insurance or, in case of unemployment, by the state health care system, free of charge.

However, as mentioned above, many unemployed Roma/Gypsies are not registered at the state labour exchange offices and thus, with the exception of children, cannot avail themselves of the state health service free of charge, except for emergency situations. Health conditions among the Roma population are markedly worse than among the majority. Although no official statistics are available, the Programme reports a higher incidence of digestive and respiratory diseases, including tuberculosis, among Roma/Gypsies than among the population at large, and a lower life expectancy. The Programme envisages the allocation of some funding, in co-operation with the Ministry of Health, to address the health problems of Roma/Gypsy communities. However, as yet, little appears to have been done in the framework of the Programme in this field, although ECRI notes that some national health programmes - such as those addressing AIDS, sexually transmitted diseases, drug dependency, and national tuberculosis - explicitly target vulnerable groups, including Roma/Gypsies. ECRI urges the Lithuanian authorities to take the next necessary steps to address the health situation of the Roma/Gypsy community.

61. In the Roma/Gypsy settlement of Kirtimai, houses lack basic infrastructure and facilities. Most of these houses have reportedly been built without permits or registration. As a result, their inhabitants are left outside the scope of public services and protection afforded to legal residents. All dwellings are registered under one address and obtaining official registration is rendered difficult by the fact that many Roma/Gypsies do not possess the necessary documentation. Roma/Gypsies in other areas of Lithuania reportedly share similar sub-standard housing conditions. ECRI expresses concern at this situation. It believes that, in the medium and long-term, the Lithuanian authorities should implement measures to overcome the practical segregation of Roma/Gypsy communities as regards housing. As suggested above, moves to change the thrust of housing policy should be conceived and implemented in close consultation with the members of the communities concerned. As an emergency short-term measure, ECRI urges the Lithuanian authorities to ensure that the dwellings of the members of the Roma/Gypsy communities meet, at the very least, the basic standards of adequate housing.
62. The Lithuanian authorities have stated that Kirtimai is characterised by high levels of criminal activities. While recognising that engagement in criminal activities is a problem for a number of persons living in the Kirtimai settlement, Roma representatives complain that, in carrying out their activities, the police often do not differentiate between those who are involved in criminal activities and those who are not. Activities of the police which reportedly target all Roma/Gypsies indiscriminately include raids during which arbitrary searches of houses and belongings are carried out. In these and other occasions, Roma/Gypsies claim that they are not shown warrants and that they are sometimes harassed and beaten by the police. Although Roma/Gypsy representatives identify relations with the police as a major problem, no organisation has recorded any cases or filed any complaints of violence against Roma/Gypsies on the part of the police. This may be due to the fact that Roma/Gypsies do not know who to address, are often warned against filing reports or complaints against the police, and generally refrain from doing so for fear of negative consequences. In this respect, ECRI has been informed that the Lithuanian authorities organise meetings during which members of the Roma/Gypsy communities are informed of the procedure to follow in case of

unlawful action by the police. In line with the observations made in other parts of this report¹², ECRI urges the Lithuanian authorities to investigate thoroughly all alleged cases of misbehaviour on the part of the police and to bring to justice those officers found responsible. In this respect, ECRI underlines the importance of the existence of reliable and adequately publicised avenues for the reporting of police misbehaviour *vis-à-vis* members of the Roma/Gypsy communities.

63. As mentioned above¹³, an indefinite number of Roma/Gypsies who have lived in Lithuania for a long time are not in possession of Lithuanian citizenship. ECRI reiterates its call for ways to facilitate access to citizenship for those Roma/Gypsies who failed to apply for citizenship immediately after the restoration of the independence of Lithuania.
64. Racist attacks and threats also appear to be a matter of concern for the members of the Roma/Gypsy community. Abusive language, threats and in some cases even violent behaviour are reported to be not infrequent. ECRI encourages the Lithuanian authorities to address these cases through a more effective implementation of the existing administrative sanctions and of the criminal law provisions against racist acts as mentioned in other parts of this report.
65. The mainstream media reflects the largely negative popular image of Roma/Gypsies among the majority in Lithuania. Research shows that Roma/Gypsies are most frequently depicted in articles about crime, generally reinforcing the dominant image of a marginal, deviant group. The Lithuanian authorities have informed ECRI that they work with the media profession in order to improve the image of the members of the Roma/Gypsy communities in the Lithuanian media. ECRI stresses once more in this context the role of the media in promoting a tolerant society¹⁴.

¹² See *Conduct of law enforcement officials*

¹³ *Constitutional provisions and other basic provisions*

¹⁴ See above "*Media*"

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