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against Racism and Intolerance**

**Third report on
Lithuania**

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Table of contents

<u>FOREWORD</u>	3
<u>EXECUTIVE SUMMARY</u>	4
<u>I. FOLLOW-UP TO ECRI'S SECOND REPORT ON LITHUANIA</u>	5
<u>INTERNATIONAL LEGAL INSTRUMENTS</u>	5
<u>CONSTITUTIONAL PROVISIONS AND OTHER BASIC PROVISIONS</u>	6
: <u>Law on Citizenship</u>	6
: <u>Legislation on national minorities</u>	6
<u>CRIMINAL LAW PROVISIONS</u>	7
<u>CIVIL AND ADMINISTRATIVE LAW PROVISIONS</u>	9
<u>ADMINISTRATION OF JUSTICE</u>	10
<u>SPECIALISED BODIES AND OTHER INSTITUTIONS</u>	10
<u>EDUCATION AND AWARENESS-RAISING</u>	12
<u>RECEPTION AND STATUS OF NON-CITIZENS</u>	13
<u>ACCESS TO PUBLIC SERVICES</u>	13
: <u>Access to education</u>	13
<u>EMPLOYMENT</u>	13
<u>VULNERABLE GROUPS</u>	14
: <u>Roma communities</u>	14
: <u>Jewish communities</u>	14
: <u>National minorities</u>	14
: <u>Victims of trafficking</u>	15
<u>ANTISEMITISM</u>	15
<u>MEDIA</u>	17
<u>CONDUCT OF LAW ENFORCEMENT OFFICIALS</u>	17
<u>MONITORING THE SITUATION</u>	18
<u>II. SPECIFIC ISSUES</u>	19
<u>THE SITUATION OF THE ROMA COMMUNITIES</u>	19
<u>ASYLUM SEEKERS AND REFUGEES</u>	24
<u>BIBLIOGRAPHY</u>	28

Foreword

The European Commission against Racism and Intolerance (ECRI) was established by the Council of Europe. It is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members, who are appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

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.

The country-by-country approach deals with all member States of the Council of Europe on an equal footing. The work is taking place in 4-5 year cycles, covering 9-10 countries per year. The reports of the first round were completed at the end of 1998 and those of the second round at the end of the year 2002. Work on the third round reports started in January 2003.

The third round reports focus on "implementation". They examine if ECRI's main recommendations from previous reports have been followed and implemented, and if so, with what degree of success and effectiveness. The third round reports deal also with "specific issues", chosen according to the different situations in the various countries, and examined in more depth in each report.

The working methods for the preparation of the reports involve documentary analyses, a contact visit in the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidences. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on an important number of national and international written sources. The in situ visit allows for meeting directly the concerned circles (governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to propose, if they consider it necessary, amendments to the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final report of ECRI.

The following report was drawn up by ECRI under its own and full responsibility. It covers the situation as of 24 June 2005 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.

Executive summary

Since the publication of ECRI's second report on Lithuania on 15 April 2003, progress has been made in a number of the fields highlighted in that report. The legal framework against racial discrimination has been strengthened by the adoption of the Law on Equal Opportunities, which also extended the mandate of the Equal Opportunity Ombudsman to further grounds than gender, including race, ethnic origin and religion. Some measures have been taken to further national minorities' enjoyment of their right to mother tongue education. Projects aimed at the integration of national minorities, and particularly Roma, in the labour market are being initiated. Specific action plans, which had already been adopted at the time of ECRI's second report to improve the integration of national minorities and, in particular, the Roma population, are being developed further.

However, a number of recommendations made in ECRI's second report have not been implemented, or have only been partially implemented. The provisions in force to counter racist expression, including incitement to racial hatred, which has notably targeted the Jewish, Roma and Chechen communities, have not been adequately applied. In spite of some initiatives taken, the members of the Roma population of Lithuania continue to face disadvantage, prejudice and discrimination across a wide range of areas and still need to be thoroughly involved in decision-making processes that concern them. Asylum legislation and practice has undergone an important reform which, in spite of positive elements introduced, has diminished refugee protection in several areas. Instances of antisemitism continue to be a cause of concern to ECRI in Lithuania. The contribution made by some media to creating an atmosphere of hostility towards members of minority groups is also noted in the report. The lack of awareness within society of discrimination and its manifestations is reflected in a general lack of support for, or hostility to the adoption of positive measures for disadvantaged groups.

In this report, ECRI recommends that the Lithuanian authorities take further action in a number of areas. As concerns legislation, these areas include; ratification of Protocol No. 12 to the European Convention on Human Rights, which lays down a general prohibition of discrimination; the need to adequately implement existing legislation against racist expression, including incitement to racial hatred; and the need to fine-tune criminal legislation against racially motivated crime. ECRI also recommends that the Lithuanian authorities further develop, in close co-operation with the Roma communities, their integration strategies targeting these communities and that they adequately fund and implement these strategies. ECRI recommends that the Lithuanian authorities ensure that the rights of asylum seekers to seek and obtain protection is not jeopardised by restrictive legislation or practice. It also recommends that the Lithuanian authorities monitor closely and address all instances of antisemitism. ECRI furthermore recommends that the Lithuanian authorities strengthen their efforts to raise the awareness among Lithuanian society of discrimination and of the need to tackle it through equal opportunities policies.

I. FOLLOW-UP TO ECRI'S SECOND REPORT ON LITHUANIA

International legal instruments

1. In its second report, ECRI recommended that Lithuania sign and ratify: Protocol No.12 to the European Convention on Human Rights (ECHR); the European Convention on Nationality; the Convention on the Participation of Foreigners in Public Life at Local Level; the European Charter for Regional or Minority Languages; and the UNESCO Convention against Discrimination in Education. Lithuania has not signed any of these instruments. However, the Lithuanian authorities have informed ECRI that work is underway to assess the conformity of Lithuanian legislation with Protocol No. 12 and the European Convention on Nationality. As concerns the Convention on the Participation of Foreigners in Public Life at Local Level, ECRI is pleased to note that work towards ratification of this instrument is expected to be finalised soon. No progress is reported regarding the ratification of the European Charter for Regional or Minority Languages and the UNESCO Convention against Discrimination in Education.
2. In its second report, ECRI noted that Lithuania had accepted some of the provisions contained in Article 19 of the European Social Charter (revised), which deals with the right of migrant workers and their families to protection and assistance, and recommended that Lithuania consider accepting the other provisions contained in this article. The Lithuanian authorities have stated that this question is currently under review.
3. In its second report, ECRI recommended that Lithuania make the declaration under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), whereby individuals and groups of individuals can file petitions before the Committee for the Elimination of Racial Discrimination. There has been no progress towards Lithuania's acceptance of this article.
4. The Lithuanian authorities have reported that for the moment they do not envisage ratifying the European Convention on the Legal Status of Migrant Workers, as recommended by ECRI in its second report, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, notably in view of the financial obligations that this would entail.
5. ECRI is pleased to note that on 7 April 2005 Lithuania signed the Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems and that this instrument should be ratified at the beginning of 2006.

Recommendations:

6. ECRI strongly recommends that the Lithuanian authorities sign and ratify Protocol No.12 to the ECHR as soon as possible. It also recommends that the Lithuanian authorities sign and ratify the European Convention on Nationality without delay. Furthermore, ECRI recommends that the European Charter for Regional or Minority Languages, the UNESCO Convention against Discrimination in Education, as well as the European Convention on the Legal Status of Migrant Workers and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families be ratified. ECRI encourages the Lithuanian authorities to finalise their work towards the ratification of the Additional Protocol to the Convention on Cybercrime and the Convention on the Participation of Foreigners in Public Life at Local Level swiftly. ECRI reiterates its recommendation that the Lithuanian authorities accept the provisions contained in Article 19 of the European Social Charter (revised) that they have not yet

accepted. Finally, ECRI reiterates its recommendation that the Lithuanian authorities accept Article 14 of the ICERD.

Constitutional provisions and other basic provisions

- *Law on Citizenship*

7. Since ECRI's second report, Lithuania has adopted a new Law on Citizenship, which entered into force on 1 January 2003. Article 18 of this law regulates the loss of Lithuanian citizenship. This article provides that the acquisition of citizenship of another State is one of the circumstances which result in the loss of Lithuanian citizenship. ECRI notes, however, that this circumstance is not applicable to persons of Lithuanian descent¹. Concern has been expressed at both national and international level that these provisions discriminate against Lithuanian citizens on the basis of their national or ethnic origin, in that only those citizens who are of non-Lithuanian origin are stripped of their Lithuanian citizenship upon acquiring citizenship of another State. ECRI notes that two cases are pending before the Constitutional Court concerning the conformity of the provisions of the Law on Citizenship mentioned above with the Lithuanian Constitution. The Lithuanian authorities have stated that they will review the Law on Citizenship in the light of the decisions of the Constitutional Court.
8. ECRI notes that a number of amendments to the Law on Citizenship came into force in December 2004. These include an amendment which extends the length of time required for resident spouses of Lithuanian citizens to be naturalised, from five to seven years. ECRI notes that the original amendment adopted by the Parliament extended this residency requirement to ten years and that this period was shortened to seven years following the veto of the President of the Republic.

Recommendations:

9. ECRI recommends that the Lithuanian authorities ensure that the provisions of the Law on Citizenship, and notably those regulating the loss of Lithuanian citizenship, do not discriminate against Lithuanian citizens on grounds such as "race", colour, language, religion and national or ethnic origin.
10. ECRI encourages the Lithuanian authorities to ensure that the requirements for naturalisation, and notably the residence requirement which applies to spouses of Lithuanian citizens, do not excessively restrict the possibility of persons residing in Lithuania to be naturalised.

- *Legislation on national minorities*

11. In its second report, ECRI noted that a law on national minorities was being drafted and encouraged the Lithuanian authorities to finalise this process as soon as possible. ECRI notes that the Parliament rejected that draft law in 2003 and that another draft is currently pending before it for examination. At present, therefore, the general legal framework in force for national minorities is contained in the Law on National Minorities, adopted in 1989 and amended in 1991. Representatives of national minorities have expressed general satisfaction with the existing legal framework. However, the Lithuanian authorities have stated that a new law is necessary, notably in order to adapt the legal framework to the international obligations in the field of protection of the rights of national minorities that Lithuania has undertaken since 1991. The Lithuanian authorities have also

¹ According to Article 18.2, the provision establishing loss of Lithuanian citizenship upon acquisition of citizenship of another State is not applicable to "persons of Lithuanian descent whose parents or grandparents are or were, or one of the parents or grandparents is, Lithuanian and the person considers himself Lithuanian".

informed ECRI that, through the Council of National Minorities², representatives of these minorities have been closely associated to the preparation of the draft law which is currently pending before the Parliament.

Recommendations:

12. ECRI recommends that the Lithuanian authorities ensure that any legislation they may adopt in the field of the protection of the rights of national minorities does not result in a lower level of protection than that already enjoyed by persons belonging to national minorities.

Criminal law provisions

13. A new Criminal Code, already adopted but not yet enforced at the time of ECRI's second report, has been in force in Lithuania since 1 January 2003. As mentioned in ECRI's second report, this Criminal Code contains provisions against racial discrimination (Article 169³) and racist expression, including incitement to racial hatred (Article 170⁴). Having noted that there had been no reported cases under the corresponding articles of the Criminal Code then in force, in its second report ECRI recommended that the Lithuanian authorities 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. ECRI notes that some training has been provided to the police, notably through projects run by non-governmental organisations. However, such training has focused more on ethnic diversity than on the role of the police in the application of the legal provisions against racial discrimination and racist expression⁵. In general, ECRI has received consistent reports which indicate that the various actors of the criminal justice system still have very little knowledge of these provisions as well as limited awareness of the need to apply them rigorously.
14. As concerns the provisions which prohibit racial discrimination, no cases have been filed under Article 169 (or the corresponding article of the previous Criminal Code⁶) since ECRI's second report. However, ECRI notes that, in line with a recommendation it formulated in its second report, the Lithuanian authorities have adopted civil and administrative law provisions against racial discrimination⁷ and that this may result in an increase in the number of cases of racial discrimination that will be brought before the courts.

² See below, Vulnerable groups - National minorities

³ Article 169 of the Criminal Code (Discrimination on grounds of nationality, race, sex, origin, religion or belonging to any other group) punishes those who perform "acts aimed at interfering with the rights of a group of persons or a person belonging to a group because of their gender, sexual orientation, race, nationality, language, origin, social status, belief, convictions or attitudes, to participate, as equals of other persons, in political, economic, social, cultural and labour or other activity or at restricting their rights and freedoms"

⁴ Article 170 of the Criminal Code (Instigation against any nationality, race, ethnic, religious or other group of persons) punishes those who "by public oral or written statements or through public mass media, ridicule, express contempt, incite to hatred or advocate discrimination towards a person or a group of persons on grounds of gender, sexual orientation, race, nationality, language, origin, social status, belief convictions or attitudes" and those who "publicly incite to violence or physical harsh treatment of a person or a group of persons" on the same grounds "or provide funding or support such activity in any material way". This article also makes legal persons liable for the acts it prohibits.

⁵ See below, Conduct of law enforcement officials.

⁶ Article 72 of the Criminal Code previously in force.

⁷ See below, Civil and administrative law provisions.

15. As concerns racist expression, ECRI notes that since its second report investigations into possible breaches of Article 170 of the Criminal Code have been opened in a few cases. However, ECRI has not been made aware of the results of these investigations, except for one case, examined in more detail in another section of this report⁸, which relates to the publication of a series of antisemitic articles in a newspaper. In this case, the General Prosecutor's Office decided to discontinue the proceedings, although more recently investigations into this case have been re-opened. ECRI also has no knowledge of any sentences having been handed down for breach of Article 170. ECRI is concerned that this apparent lack of cases does not reflect the real situation prevailing in Lithuania. Civil society organisations have consistently reported to ECRI that violations of Article 170 do actually occur. These violations have included written statements published in the print media, but also an even more considerable amount of materials posted on the Internet⁹.
16. In its second report, ECRI recommended that Lithuania introduce provisions which expressly consider racist motivation of common offences as a specific aggravating circumstance. The Lithuanian authorities have pointed out that, according to Article 54.2 of the Criminal Code, a court must take into account the motives of the offender when imposing a sentence. However, ECRI notes that Article 60 of the Criminal Code contains a list of specific aggravating circumstances which must be taken into account to this end, and that racial motivation is not included in this list.

Recommendations:

17. ECRI recommends that the Lithuanian authorities keep the effectiveness of the existing criminal law provisions under close review. In this respect, ECRI draws the attention of the Lithuanian authorities to its General Policy Recommendation No.7 on national legislation to combat racism and racial discrimination¹⁰, which contains a comprehensive list of acts that ECRI considers should be penalised. In particular, ECRI strongly recommends that, in accordance with this General Policy Recommendation¹¹, the Lithuanian authorities introduce a provision which expressly considers the racist motivation of an offence as a specific aggravating circumstance.
18. ECRI strongly recommends that the Lithuanian authorities increase their efforts to ensure that all those involved in the criminal justice system, from the lawyers to the police, the prosecuting authorities and the courts, are equipped with thorough knowledge of the provisions in force against racism and racial discrimination. ECRI also recommends that the Lithuanian authorities raise the awareness of all public servants involved in the criminal justice system of the need to take all manifestations of these phenomena seriously. In particular, ECRI calls on the Lithuanian authorities to work for a better implementation of Article 170 of the Criminal Code.

⁸ See below, Antisemitism.

⁹ See below, Media.

¹⁰ CRI (2003) 8: ECRI General Policy Recommendation N°7 on national legislation to combat racism and racial discrimination, European Commission against Racism and Intolerance, Council of Europe, February 2003.

¹¹ ECRI General Policy Recommendation N°7, paragraph 21 (and paragraph 47 of the Explanatory Memorandum).

Civil and administrative law provisions

19. In its second report, ECRI recommended that Lithuania adopt a comprehensive body of civil and administrative law provisions against discrimination that would cover different fields of life and provide for effective means of redress. ECRI is pleased to note that in November 2003, the Lithuanian Parliament adopted a Law on Equal Opportunities, which entered into force on 1 January 2005. This law, through which Lithuania transposed the two European Council Directives 2000/43 and 2000/78¹², prohibits discrimination on different grounds, including race, ethnic origin and religion, in the following areas: employment, education, provision of goods and services and advertising. It applies to both the public and the private sector. The law also places State institutions, educational institutions, employers and producers and providers of goods and services under specific duties to implement equal treatment, although it does not prescribe any specific arrangements for the enforcement of these duties. The law furthermore provides that alleged victims of discrimination can file a complaint with the Equal Opportunities Ombudsman¹³. As recommended by ECRI in its second report, the competence of this institution has therefore been extended to deal with equality on further grounds than only gender, including race, ethnic origin and religion.
20. Since the entry into force of the Law on Equal Opportunities, the Equal Opportunities Ombudsman has received 56 individual complaints of alleged breach of equal opportunities legislation¹⁴. ECRI notes, however, that only two of these cases concerned discrimination on grounds covered by its mandate. One of these cases related to the demolition of houses in the Roma settlement of Kirtimai¹⁵ and resulted in a recommendation of the Equal Opportunities Ombudsman. The other was a case of alleged employment discrimination, which, however, was dismissed as unfounded.
21. Article 41 of the Code of Administrative Violations establishes an administrative liability of the employer for violations of labour laws, including those establishing the principle of equal treatment between women and men. ECRI notes, however, that infringement of equal treatment on grounds such as race, ethnic origin or religion is at present not covered by Article 41.
22. The Code of Administrative Violations contains other provisions relevant to combating racism and intolerance. These include Article 214 (12), which punishes the production, ownership, distribution or display of racist material and Article 214 (13), which punishes the establishment of, or participation in the activities of an organisation that advocates national, racist or religious dissension. ECRI is aware of two cases which were investigated for possible breach of Article 214 (12) in 2004. It understands that one of these two cases, concerning the publication of antisemitic articles in a weekly newspaper, was discontinued by the General Administrative Court. ECRI is not aware of any cases of the application of Article 214 (13).
23. In its second report, ECRI recommended that the Lithuanian authorities consider adopting provisions allowing for the suppression of public financing for those

¹² Directive 2000/43/EC of the Council of the European Union implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and Directive 2000/78/EC of the Council of the European Union establishing a general framework for equal treatment in employment and occupation.

¹³ See below, Specialised bodies and other institutions.

¹⁴ Such legislation includes the Law on Equal Opportunities and the Law on Equal Opportunities of Women and Men.

¹⁵ See Section II below, The situation of the Roma communities.

political parties whose members are responsible for breach of the criminal law provisions prohibiting racial expression. ECRI has no knowledge of developments in this area since its second report.

Recommendations:

24. ECRI recommends that the Lithuanian authorities keep the effectiveness of the existing civil and administrative law provisions against racial discrimination under review. In this respect, it draws once again the attention of the Lithuanian authorities to its General Policy Recommendation No.7, in particular as concerns the areas which ECRI considers should be covered by antidiscrimination legislation¹⁶. ECRI also encourages the Lithuanian authorities to draw inspiration from ECRI General Policy Recommendation No.7 as concerns the establishment of mechanisms to enforce the duty to promote equality and to prevent discrimination¹⁷.
25. ECRI recommends that the Lithuanian authorities ensure that the Code of Administrative Violations provide for sanctions for the infringement of equal treatment on grounds such as race, ethnic origin or religion to the same extent as it does on grounds of gender.
26. ECRI recommends that the Lithuanian authorities monitor the implementation of Articles 214 (12) and 214 (13) of the Code of Administrative Violations and take any necessary measures to ensure that these articles are thoroughly applied.
27. In accordance with its General Policy Recommendation No. 7¹⁸, ECRI recommends that the Lithuanian authorities provide for an obligation in law to suppress public financing of organisations, including political parties, which promote racism.

Administration of justice

28. In its second report, ECRI encouraged the Lithuanian authorities to ensure that all non-Lithuanian speaking participants in legal proceedings have access in practice to interpretation into a language that they understand, as provided by Lithuanian legislation. The Lithuanian authorities have reported to ECRI that they have no knowledge of cases where interpretation was not provided. However, ECRI has continued to receive reports according to which Roma and foreigners do not always have access to interpretation or translation of documents for legal proceedings into a language that they understand.

Recommendations:

29. ECRI recommends that the Lithuanian authorities ensure that the legislation in force concerning the right of individuals to legal proceedings in a language that they understand is thoroughly respected in practice.

Specialised bodies and other institutions

30. In its second report, ECRI recommended that the Lithuanian authorities extend the mandate of the Equal Opportunities Ombudsman, who was at the time responsible only for gender equality, to cover additional grounds, including “race”,

¹⁶ ECRI General Policy Recommendation N°7, paragraph 7 (and paragraphs 17-26 of the Explanatory Memorandum).

¹⁷ ECRI General Policy Recommendation N°7, paragraph 8 (and paragraph 27 of the Explanatory Memorandum).

¹⁸ ECRI General Policy Recommendation N°7, paragraph 16 (and paragraph 36 of the Explanatory Memorandum).

colour, language, religion, nationality and national and ethnic origin. ECRI also stressed that any such extension of the mandate should be matched by an increase in the resources available to the Equal Opportunities Ombudsman in order to enable it to fulfil its mandate effectively. ECRI is pleased to note that the Law on Equal Opportunities has extended the mandate of the Equal Opportunity Ombudsman to further grounds than gender, including race, ethnic origin and religion¹⁹. ECRI is also pleased to note that since the extension of its mandate, the budget of this institution has doubled.

31. The Equal Opportunities Ombudsman is competent for adjudicating individual complaints of alleged breach of equal opportunities legislation. However, as mentioned above²⁰, the number of cases relating to grounds covered by ECRI's mandate has so far been very modest. It has been noted that this lack of cases reflects, at least in part, the fact that the new legislation is not yet well known by the general public, including potential victims of racial discrimination. ECRI is pleased to note that the Equal Opportunities Ombudsman has started activities aimed at raising the awareness of potential victims of racial discrimination of their rights under the Law on Equal Opportunities and of the possibility to seize the Equal Opportunities Ombudsman. ECRI furthermore notes that the Equal Opportunities Ombudsman favours the opening of local branches of this institution in the regions, in order to improve its accessibility throughout the country.
32. As concerns the Parliamentary Ombudsman, whose task is to investigate complaints concerning the abuse of office and bureaucracy of officers and violations of human rights and freedoms in the area of public administration, in its second report ECRI noted that no complaints of discrimination on grounds such as "race", colour, language, religion, nationality or national or ethnic origin had been filed with this Office. ECRI notes that the situation has since then remained unchanged. Although members of national minorities and foreigners do file complaints with the Office of the Parliamentary Ombudsman, their complaints are reported not to concern racial or ethnic discrimination. The Office has reported to ECRI that it carefully examines the possible discriminatory dimension of all complaints. So far, however, in none of these has discrimination been found to have taken place.

Recommendations:

33. ECRI recommends that the Lithuanian authorities keep the effectiveness of the legislation that regulates the Equal Opportunities Ombudsman under review. It recommends that, in doing so, they take into account ECRI's General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia and intolerance at national level²¹ and ECRI's General Policy Recommendation No. 7²². In particular, ECRI encourages the Lithuanian authorities to consider including nationality (i.e. citizenship) and language among the equality grounds to be covered by the Equal Opportunity Ombudsman.
34. ECRI encourages the Lithuanian authorities to continuously review, in co-operation with the Equal Opportunities Ombudsman, the adequacy of the

¹⁹ See above, Civil and administrative law provisions.

²⁰ Civil and administrative law provisions.

²¹ CRI (97) 36: ECRI General Policy Recommendation n° 2: Specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, European Commission against Racism and Intolerance, Council of Europe, June 1997.

²² ECRI General Policy Recommendation N°7, paragraph 24 (and paragraphs 50-55 of the Explanatory Memorandum).

resources that are available to this institution, in order to ensure that it can carry out all the functions covered by its mandate, including those related to raising society's and target groups' awareness of equal opportunities legislation and remedies. ECRI also recommends that the Lithuanian authorities support the Equal Opportunities Ombudsman's efforts to improve accessibility of this institution in the different regions of Lithuania.

Education and awareness-raising

35. In its second report, ECRI recommended that the Lithuanian authorities strengthen the human rights component of the existing civic education courses, with particular emphasis on non-discrimination and respect of difference, including through teacher training. ECRI considered, however, that in the longer term Lithuania should consider making human rights a separate compulsory subject at both primary and secondary level.
36. ECRI notes that education in human rights still forms part of the curriculum for civic education and that at present there does not seem to be a debate on teaching human rights as a separate compulsory subject. Civil society organisations have reported to ECRI that there is a lack of knowledge of human rights among civic education teachers, especially in regions other than Vilnius. They have also reported that the parts of the civic education textbooks devoted to human rights are not always of adequate quality. The Lithuanian authorities have stated that a revision of all new textbooks, including civic education textbooks, will be undertaken soon. As concerns more specifically education aimed at promoting mutual knowledge and respect and at strengthening pupils' and teachers' ability to deal with diversity, ECRI notes that a number of initiatives have been undertaken. However, most initiatives in these fields are reportedly run by the non-governmental sector without the financial support of the State authorities. It has also been reported to ECRI that there is little co-ordination between the authorities and the non-governmental sector as concerns initiatives carried out in these fields. ECRI is pleased to note that these initiatives have tackled important subjects such as Holocaust education and promoting inclusion of Roma children.
37. In general, ECRI has received consistent reports according to which awareness of issues of racism and racial discrimination and of the ways in which these phenomena manifest themselves in Lithuanian society is still very low among both key professionals and the general public. For instance, surveys appear to indicate that members of ethnic and national minorities are seen as the groups least subject to discrimination or rights violations. In ECRI's opinion, this general lack of awareness is also at the origin of the little recognition in Lithuania at present of the need to take positive measures in favour of certain particularly disadvantaged minority groups composing Lithuanian society. ECRI notes that civil society organisations have started training programmes aimed at raising awareness of these issues among key professionals, including journalists, police officers, teachers and municipal officials.

Recommendations:

38. ECRI recommends that the Lithuanian authorities strengthen the human rights component of the existing civic education courses, notably through teacher training and the improvement of textbooks. It considers that, in the longer term, the Lithuanian authorities should consider making human rights, including non-discrimination, a separate compulsory subject at both primary and secondary level.
39. ECRI recommends that the Lithuanian authorities enhance their efforts to provide education aimed at promoting mutual knowledge and respect and at

strengthening pupils' and teachers' ability to deal with diversity. To this end, it recommends that the Lithuanian authorities strengthen the support they provide to civil society organisations active in these fields and, more generally, that they co-operate better with the non-governmental sector as concerns initiatives carried out in these fields.

40. ECRI recommends that the Lithuanian authorities strengthen their efforts to raise the awareness of key professionals and the general public of issues of racism and racial discrimination, notably by providing support to civil society organisations active in these fields.

Reception and status of non-citizens

41. See Section II of this report.

Access to public services

- Access to education

42. Since ECRI's second report, the Lithuanian authorities have adopted a new Law on Education, which contains provisions concerning minority language education, as well as Provisions for Education of National Minorities²³. A legal framework for providing minority language education in Sunday schools has also been established. Representatives of national minorities have expressed overall satisfaction with the general legal framework that regulates minority language education at present. However, they have also highlighted problems, including as concerns the number of students needed to establish minority language schools and classes and availability of good quality textbooks. In this respect, the authorities have reported that, since ECRI's second report, a number of textbooks for use in schools with instruction in Russian and Polish have been published, as well as methodology books on minority language teaching and the first textbook in the Roma language with accompanying guidelines for teachers. ECRI notes that representatives of national minorities support the establishment of Sunday schools; however it has also been reported to ECRI that funding responsibilities for these schools have not yet been clarified.

Recommendations:

43. ECRI recommends that the Lithuanian authorities pursue their efforts in the field of providing minority language education and that they address in close consultation with the representatives of the national minorities concerned any persisting difficulties, notably as concerns the areas highlighted above.

Employment

44. ECRI welcomes the fact that, in accordance with a recommendation it made in its second report, employment is one of the areas covered by the recently-adopted antidiscrimination legislation²⁴. Although, as mentioned above, cases of employment discrimination on grounds covered by ECRI's mandate under the new legislation or under other relevant labour legislation are extremely rare, ECRI considers that discrimination is likely to play a significant role in explaining current disparities in the employment situation of different ethnic groups. In this respect, anecdotal evidence indicates that Roma and refugees are the groups most heavily affected by unemployment. However, monitoring of unemployment broken down by ethnic origin carried out by the Lithuanian Institute of Statistics in

²³ Adopted by Decree No. 56 of the Minister of Education and Science on 16 January 2002.

²⁴ See above, Civil and administrative law provisions.

2002 and 2003 also showed that other groups, such as the Russians, are also somewhat over-represented amongst the unemployed²⁵. It has been noted that the reasons for this situation may be complex and ECRI considers that further research in this field would be valuable²⁶. In this respect, it regrets that monitoring of unemployment broken down by ethnic origin was discontinued in 2004. ECRI notes that, since its second report, some measures have been taken to improve the employment situation of certain minority groups, some of which are mentioned in other parts of this report²⁷. These measures include a project supported by the European Union EQUAL programme and aimed at developing mechanisms for the integration of national minorities in the labour market. However, ECRI considers that more needs to be done in order to promote genuine equal opportunities for all ethnic minority groups in employment in Lithuania.

Recommendations:

45. ECRI recommends that the Lithuanian authorities undertake additional efforts to promote genuine equal opportunities for all ethnic minority groups in employment. In this respect, it recommends that the Lithuanian authorities strengthen their efforts to monitor the employment situation, including through collection of relevant data broken down by ethnic origin, and that they take steps to counter any patterns of discrimination found, notably through measures aimed at raising the awareness of public and private employers.

Vulnerable groups

- ***Roma communities***
46. See Section II of this report.
- ***Jewish communities***
47. See below, Antisemitism.
- ***National minorities***
48. As already noted in ECRI's second report, a Council of National Minorities comprised of representatives of twenty national minorities and attached to the Department of National Minorities and Lithuanians Living Abroad (DNMLLA), carries out advisory functions on matters of relevance to them. In its second report, ECRI recommended that the Lithuanian authorities ensure thorough consultation of the representatives of the Council on all such matters. Although they stress that opportunities to influence further the decision making processes would be welcome, the representatives of the Council have expressed general satisfaction with the level of consultation they enjoy. However, ECRI notes that the amendments to the citizenship legislation concerning loss of Lithuanian citizenship described above²⁸ were passed without any previous consultation of the Council and that such amendments constitute an issue of serious concern for the Council today.
 49. In its second report, ECRI recommended that the Lithuanian authorities make adequate resources available for the implementation of programmes aimed at the

²⁵ In 2003, for instance, unemployment stood at 11.7% for Lithuanians and 18.7% for Russians.

²⁶ See below, Monitoring the situation in the country.

²⁷ See below, Section II, The situation of the Roma communities.

²⁸ Constitutional provisions and other basic provisions – Law on Citizenship.

integration of national minorities. ECRI notes that in June 2004 a long-term “Action Programme for the Integration of National Minorities into Lithuanian Society (2005-2010)” was adopted and understands that the 2005 budget of the DNMLLA provides for a 100 000 Litas increase in the support to national minorities.

50. While the members of the Lithuanian Russian communities report some problems in areas which are common to those of other national minorities, such as education and employment, ECRI has also received reports according to which the members of the Russian communities experience specific difficulties linked to the erroneous association sometimes made in public opinion between the members of the Lithuanian Russian communities and the policies of the Russian Federation.

- ***Victims of trafficking***

51. Victims of trafficking in Lithuania include essentially Lithuanian women returning to Lithuania from abroad, but also a small number of non-Lithuanian women trafficked into Lithuania. The Lithuanian authorities have informed ECRI that the existing programmes which provide assistance (including accommodation, food and rehabilitation services) to women who are victims of trafficking apply equally to both categories of victims. It is not clear to ECRI, however, whether provisions are in place in Lithuania allowing for residence permits to be issued to non-Lithuanian women who have fallen victim to trafficking and whether, in this case, the granting of such permits is conditional on the willingness of the victim to testify against the traffickers.

Recommendations:

52. ECRI recommends that the Lithuanian authorities ensure that the Council of National Minorities is thoroughly consulted and heard on all matters of relevance to it. It recommends that the Lithuanian authorities ensure that adequate funding is available for the implementation of the “Action Programme for the Integration of National Minorities into Lithuanian Society (2005-2010)”. ECRI also encourages the Lithuanian authorities to address any manifestations of prejudice or hostility *vis-à-vis* members of national minorities.
53. ECRI recommends that the Lithuanian authorities ensure that adequate assistance is available to non-Lithuanian women who are victims of trafficking and that these women are able to obtain, as necessary, residence permits irrespective of their willingness to testify against the traffickers.

Antisemitism

54. In its second report, ECRI called on the Lithuanian authorities to continue to monitor manifestations of antisemitism and to strive to find and punish the persons responsible for any such acts. ECRI notes that, since its second report, manifestations of antisemitism have continued to occur in Lithuania and have taken the form of articles published in the press, mail and other material posted on the Internet, the desecration of graves and memorial monuments, statements of public figures and other types of conduct displayed at mass events.
55. In particular, ECRI notes that in February and March 2004 a series of articles of an antisemitic character were published in the daily newspaper *Respublika* and that in March 2004 these articles were published in a separate edition which was received by all readers of that newspaper and of another newspaper, *Vakaro žinios*. ECRI notes that, at the request of civil society organisations, the General Prosecutor’s Office opened an investigation into possible breach of Article 170 of

the Criminal Code²⁹. ECRI also notes that the Inspector of Journalists' Ethics and the Commission on the Ethics of Journalists and Editors³⁰ concluded that the provisions against incitement to racial or religious hatred contained in the Law on Provision of Information to the Public had been breached and that an *ad hoc* commission set up to consider these articles concluded that the articles in question amounted to incitement to racial hatred. However, ECRI notes that in March 2005 the General Prosecutor's Office decided to discontinue the case, reportedly on grounds, *inter alia*, that these articles did not constitute incitement to racial hatred, but were rather of a humorous nature. However, ECRI is pleased to note that, following much public criticism of the decision of the General Prosecutor's Office to discontinue the case, the latter decided more recently to re-open the investigations.

56. ECRI notes that other investigations into the possible breach of Article 170 have been opened, notably as concerns the display of antisemitic material in the context of mass events led by the local leaders of an extremist political party. It is, however, not aware of the outcome of these investigations. ECRI notes that investigations have also been opened into cases of desecration of Jewish cemeteries as well as destruction of private property and violation of public order with antisemitic connotations.
57. In its second report, ECRI noted that the Lithuanian authorities were discussing with representatives of the Jewish communities amendments to the law which regulates the restoration of the rights of religious communities to still existing real estate property nationalised after World War II³¹. ECRI understands that the Jewish communities have submitted a list of property items in respect of which restoration of rights is expected and that the Lithuanian authorities are presently examining this list. ECRI also understands that the amendments to the legislation are to be finalised once this process of examination is completed. ECRI notes that, unfortunately, in some cases issues connected with restitution of property to the Jewish communities have served as a pretext for the expression of antisemitic sentiment in public debate.

Recommendations:

58. ECRI strongly recommends that the Lithuanian authorities monitor all instances of antisemitism very closely and strengthen their efforts to find and punish the perpetrators of antisemitic crimes. It recommends in particular that the Lithuanian authorities ensure that the existing provisions against incitement to racial hatred are applied in all cases of incitement to hatred against the Jewish communities or their members. In this connection, ECRI draws the attention of the Lithuanian authorities to its General Policy Recommendation No. 9³², which provides detailed guidance on the type of antisemitic conduct that ECRI considers should be penalised.
59. ECRI encourages the Lithuanian authorities to finalise swiftly, in close co-operation with the Jewish communities, the necessary process for the adoption of the amendments to the Law on the Procedure for the Restoration of the Rights of Religious Communities to Existing Real Estate Property.

²⁹ See above, Criminal law provisions.

³⁰ See below, Media.

³¹ Law on the Procedure for the Restoration of the Rights of Religious Communities to Existing Real Estate Property.

³² CRI (2004) 37: ECRI General Policy Recommendation N°9 on the fight against antisemitism, European Commission against Racism and Intolerance, Council of Europe, June 2004

Media

60. In its second report, ECRI noted that the media, and particularly the print media, had resorted to sensational reporting concerning certain minority groups and published material which stigmatised these groups. ECRI therefore hoped that the codes of self-regulation in force at the time would be reviewed in order to more effectively counter these manifestations and that they would be applied more thoroughly. Since then, ECRI has continued to receive reports according to which some Lithuanian media have published material which raises concern with ECRI. This has included material inciting to racial hatred, targeting notably the Jewish, the Roma and Chechen communities, but also material stigmatising these groups in a more general way, including reports revealing the ethnic origin of persons found responsible of, or being investigated for committing crimes. ECRI understands that a new code of self-regulation has been adopted and that the provisions against this type of material have been further clarified in the new code. ECRI has also been made aware of a number of cases where the Inspector of Journalists' Ethics and the Commission on the Ethics of Journalists and Editors have taken action against the appearance of material of concern to ECRI. However, civil society organisations have consistently reported to ECRI that media reporting on minority groups and their portrayal of such groups, which amount in some cases to incitement to hatred, constitutes at present a matter of priority concern to them.
61. ECRI is concerned at reports indicating that racially inflammatory material is widely disseminated through the Internet. Apart from material contained in racist or xenophobic websites, this material also includes mail sent by members of the public onto Internet fora. Once again, the Jewish, Roma and Chechen communities are the most frequent targets of this material. It has been reported to ECRI that, in spite of cases having been reported to the General Prosecutor's Office, no action has been taken in response to these cases. The Inspector of Journalists' Ethics and the Commission on the Ethics of Journalists and Editors have reportedly reminded those in charge of the Internet fora of their responsibility to remove all material that incites to racial hatred. However, the material in question is reported to remain available online for very long periods of time.

Recommendations:

62. ECRI reiterates in the context of the media the recommendations it has formulated above concerning the need to ensure that all instances of incitement to racial hatred are thoroughly investigated and punished.
63. ECRI encourages the Lithuanian authorities to impress on the media, without encroaching on their editorial independence, the need to ensure that reporting does not contribute to creating an atmosphere of hostility and rejection towards members of any minority groups, including the Jewish, Roma and Chechen communities. ECRI recommends that the Lithuanian authorities engage in a debate with the media and members of other relevant civil society groups on how this could best be achieved.
64. ECRI recommends that, while acting against incitement to racial hatred and the dissemination of racist or xenophobic material, the Lithuanian authorities pay particular attention to the material posted on websites and Internet fora.

Conduct of law enforcement officials

65. ECRI notes that there have been no complaints of racist or racially discriminatory conduct on the part of Lithuanian law enforcement officials. However, ECRI has continued to receive reports according to which, for instance, members of the

Roma community are sometimes subject to actions of the police, especially aimed at clamping down on drug trafficking, which target all members of this community indiscriminately. In its second report, ECRI recommended that the Lithuanian authorities consider the establishment of an independent mechanism, separate from the police structures, for investigating allegations of police misconduct, including racist or racially discriminatory behaviour. At present, there is no debate in Lithuania concerning the possible establishment of such a body. The Lithuanian authorities have pointed out that complaints against alleged misconduct of law enforcement officials can be filed with the Parliamentary Ombudsman.

66. In its second report, ECRI recommended that the Lithuanian authorities strengthen initial and in-service training of law enforcement officials in human rights, with particular emphasis on non-discrimination. Human rights still form part of the initial training of officers at the Police Academy. The Lithuanian authorities have stated that, since ECRI's second report, they have paid particular attention to equipping officers who are likely to come into contact with minority groups with special training. They have also reported that, since ECRI's second report, the Lithuanian Centre for Human Rights has provided specific training in non-discrimination to over two hundred police officers.
67. There is no data available on the ethnic breakdown of the Lithuanian police force. However, whereas the composition of the police is reported to reflect the ethnic make-up of the local communities in a number of areas where national minorities are especially concentrated, reports indicate that there are, for example, no police officers of Roma origin. In this respect, the Lithuanian authorities have underlined that the necessary requirements that an individual must fulfil to become a police officer are equally applied to every person, irrespective of their ethnic origin.

Recommendations:

68. ECRI reiterates its recommendation that the Lithuanian authorities set up an independent mechanism, separate from the police structures, for investigating allegations of police misconduct, including racist or racially discriminatory behaviour.
69. ECRI recommends that the Lithuanian authorities continue their efforts to provide thorough initial and in-service human rights training to law enforcement officials. In particular, it recommends that all serving police officers be provided with specific training in policing a diverse society and in recording racist incidents. ECRI recommends that the Lithuanian authorities support civil society organisations capable of providing such training.
70. ECRI encourages the Lithuanian authorities to consider measures to ensure adequate representation of members of minority groups in the police. These measures should include the identification of barriers preventing members of minority groups from entering the police force in practice, and the adoption of targeted measures to overcome such barriers.

Monitoring the situation

71. In its second report, ECRI suggested that the collection of data broken down by ethnic origin could help the Lithuanian authorities to better assess the situation of the various minority groups living in Lithuania in different fields of life, such as employment, housing and education. ECRI notes that data on the ethnic origin, nationality and language of Lithuanian residents is collected through the census. However, these data are not used to assess and investigate possible situations of disadvantage of particular ethnic groups. In addition, apart from the census, very

little information on the position of ethnic minorities in different areas of life is available. ECRI notes that in those cases where it has been carried out so far, ethnic monitoring has highlighted imbalances which deserve further investigation³³.

72. ECRI also notes that the Lithuanian authorities do not systematically collect data concerning the implementation of the legal provisions in force against racism and racial discrimination.

Recommendations:

73. ECRI strongly recommends that the Lithuanian authorities improve their monitoring systems by collecting relevant information broken down according to categories such as ethnic origin, language, religion and nationality in different areas of policy and to ensure that this is done in all cases with due respect for the principles of confidentiality, informed consent and the voluntary self-identification of persons as belonging to a particular group. These systems should also take into consideration the gender dimension, particularly from the point of view of possible double or multiple discrimination.
74. ECRI recommends that the Lithuanian authorities collect data on the implementation of the existing civil, administrative and criminal law provisions against racism and discrimination, including the number and nature of the complaints filed, the investigations carried out and their results, charges brought, as well as decisions rendered and/or redress or compensation awarded.

II. SPECIFIC ISSUES

The situation of the Roma communities

75. In its second report, ECRI noted that the members of the Roma communities in Lithuania faced prejudice, disadvantage and discrimination across many areas of life, spanning from education to employment, housing, health, access to personal documents and relations with the police. ECRI welcomed the adoption of the “Programme for the Integration of Roma into Lithuanian Society 2000-2004” (hereafter: “the Programme”), which contained a number of planned measures in many of the areas highlighted above, as an initial step towards the elaboration of a comprehensive strategy to promote equal opportunities for the Roma communities of Lithuania. ECRI noted, however, that the involvement of Roma representatives in the elaboration of the Programme had been very limited. It therefore recommended that the Lithuanian authorities ensure thorough participation of Roma representatives in the evaluation of the Programme and in the development of its further stages. ECRI notes that the second stage of the Programme, which will cover the period 2005-2010, is now being drawn up. However, members of the Roma communities have reported to ECRI that, at the time of writing, they have not yet been thoroughly associated to this process. The Lithuanian authorities have stated that they are fully aware of the need to involve the Roma communities if the measures planned are to have any effect. They have also stated that they expect that the funds which will be allocated for the implementation of this programme will be considerably higher than for the previous one. ECRI also notes that the Municipality of Vilnius has drafted a plan which contains specific measures to promote the integration of the Roma community.
76. In its second report, ECRI considered that, although the Programme mentioned anti-Roma prejudice by society as a problematic area, it failed to include

³³ See above, Employment.

measures targeted at the non-Roma population aimed at combating prejudice as well as the discrimination that ensues from it. It does not appear to ECRI that, since its second report, specific measures have been taken in the framework of the Programme to address these questions. The Lithuanian authorities have pointed out, however, that a number of initiatives carried out as part of the Programme to spread knowledge about the history and culture of the Roma of Lithuania, has resulted in a change of public attitudes *vis-à-vis* Roma.

77. More generally, it has been reported to ECRI that, although the adoption of the Programme must be welcomed as a first positive step, its implementation since ECRI's second report has not been very successful. Civil society organisations consider that the programme has not been backed by sufficient political will. As a result, funding for planned measures has been limited and progress in the implementation of the Programme, slow. For instance, the DNMLLA, which is entrusted with overseeing and co-ordinating the implementation of the Programme, is reported to have had difficulties in gaining co-operation from bodies with responsibilities under the Programme and in ensuring that measures taken by these bodies regarding the Roma population respond to the same overarching goals of the Programme.

Recommendations:

78. ECRI urges the Lithuanian authorities to ensure that the Roma community is thoroughly associated to the designing of any new strategy concerning this community, in order to ensure that planned measures reflect as far as possible its priorities and enjoy its support. ECRI recommends that any new strategy include, as necessary, measures aimed at building the capacity of the members of the Roma communities to participate in and shape decision-making processes.
79. ECRI recommends that any new programme aimed at the integration of the Roma population be based on a concept of integration as a two-way process, where both majority and minority groups are seen as responsible for building a cohesive society. To this end, ECRI strongly recommends that the new programme include measures targeted at the non-Roma population and aimed at countering societal prejudice and discrimination towards this part of the Lithuanian population.
80. ECRI recommends that the Lithuanian authorities back any new integration programme with clear political will. In particular, ECRI encourages the Lithuanian authorities to make available adequate funding for measures planned under this programme as well as effective arrangements for its overall implementation and the co-ordination of the activities of the different sectors of the administration involved.
81. In its second report, ECRI noted that the Programme addressed the situation of the Roma community of the Kirtimai settlement (in the outskirts of Vilnius) only, and that the Lithuanian authorities planned to extend the Programme to cover the whole Roma community of Lithuania from 2005.

Recommendations:

82. ECRI recommends that the Lithuanian authorities extend any new integration programme to cover the whole Roma population of Lithuania. Once again, it recommends that the Lithuanian authorities closely involve the Roma community in the preparation of this programme.
83. In its second report, ECRI welcomed the educational activities carried out at the Roma public community centre of Kirtimai. These activities include: preparatory courses for Roma children in view of their integration into mainstream schools;

additional courses for Roma pupils who are already attending schools; and Lithuanian language classes for adults. In order to avoid *de facto* school segregation, in its second report ECRI recommended that no Roma children should attend preparatory courses for longer than strictly necessary. The Lithuanian authorities have reported that, since ECRI's second report, all children who have attended preparatory courses (between 20 and 30 children per year) have integrated the mainstream school system. Furthermore, all children living in the Kirtimai settlement are reported to be enrolled in schools. However, these children do not always attend school regularly and still drop out of school much earlier than their non-Roma counterparts, a problem which is reported to be particularly acute among Roma girls. ECRI also notes reports according to which in regions other than Vilnius a disproportionate number of Roma children attend schools designed for children with special needs.

84. In its second report, ECRI furthermore recommended that teachers be specifically trained to work in a multicultural environment and prepared to react to manifestations of prejudice or abuse from other children. ECRI also recommended that the Lithuanian authorities include information on Roma history and culture in the curricula of all schools and that teachers be trained in these subjects. ECRI is pleased to note that some work has been done in this respect, although, as mentioned above³⁴, most initiatives have been taken by civil society organisations and reportedly do not begin to meet the levels of need.

Recommendations:

85. ECRI recommends that the Lithuanian authorities continue their efforts to ensure that all Roma children integrate mainstream schools as soon as possible. It recommends that the Lithuanian authorities focus in particular on ways to promote more regular school attendance of Roma children and a willingness to pursue education further than is the case at present, particularly among girls. ECRI especially encourages the Lithuanian authorities to work closely with the families of these children in order to gain their support for any measures taken to this end. ECRI urges the Lithuanian authorities to investigate further and address as necessary any disproportionate representation of Roma children in schools designed for children with special needs.
86. ECRI reiterates its call for specific training for teachers on working in a multicultural environment. In accordance with its General Policy Recommendation No. 3 on combating racism and intolerance against Roma/Gypsies³⁵, ECRI also recommends that the Lithuanian authorities include information on Roma history and culture in the curricula of all schools and that they train teachers in these subjects.
87. Roma representatives have stated that their housing situation constitutes one of their main concerns. With respect to the housing situation of the inhabitants of the Roma settlement of Kirtimai, in its second report ECRI considered that, as a short-term measure, the Lithuanian authorities should ensure that dwellings in the settlement meet at least basic housing standards. In this respect, ECRI notes that, although living conditions in Kirtimai remain extremely poor and by far sub-standard, the Lithuanian authorities have taken some measures to improve such conditions. In its second report, ECRI also suggested that, in the longer term, the Lithuanian authorities should seek durable housing solutions in close consultation with the community concerned. However, ECRI is concerned that, since its

³⁴ See Education and training / awareness-raising

³⁵ CRI (98) 29: ECRI General Policy Recommendation n° 3: Combating racism and intolerance against Roma/Gypsies, European Commission against Racism and Intolerance, Council of Europe, March 1998.

second report, actions have been undertaken which clearly run counter to this recommendation. In particular, ECRI notes that on 2-3 December 2004, the Vilnius municipality demolished six illegally constructed dwellings in the settlement. Representatives of the Vilnius Municipality have stated that this action was necessary since dwellings in the Kirtimai neighbourhood are at particular risk of fire and in order to prevent further expansion of the settlement, where drug trafficking is allegedly increasingly widespread. ECRI notes that the Parliamentary Ombudsman held that the demolition of these dwellings violated the legal rights and interests of their users and therefore ordered its immediate cessation. ECRI also notes that the Equal Opportunities Ombudsman issued a warning to the mayor of Vilnius for the infringement of the Law on Equal Opportunities. The Parliamentary Ombudsman also recommended that the Vilnius Municipality provide information to the Roma on the possibilities for legalising illegal constructions and for obtaining social housing and that they negotiate with the inhabitants of Kirtimai on compensation for demolition of property. The Vilnius Municipality has reported to ECRI that they have started implementing the recommendations of the Ombudsman. In this respect, ECRI notes that, while a number of Roma families have expressed an interest for social housing in Vilnius and have therefore been put on waiting lists, many have expressed a preference for having their houses in Kirtimai legalised and others prefer to be re-housed in rural areas.

Recommendations:

88. ECRI recommends that the Lithuanian authorities take steps to improve the housing situation of the Roma population of Lithuania. In particular, it strongly recommends that they actively seek a durable solution to the housing situation of the Roma of Kirtimai and that they do so in close co-operation with this community. ECRI hopes that it will be possible to identify, as a result of this consultation, as wide a range of housing alternatives as possible.
89. ECRI also recommends that the Lithuanian authorities ensure that any claims for compensation for unlawful destruction of property are thoroughly and swiftly examined and processed.
90. In its second report, ECRI recommended that the Lithuanian authorities address the employment situation of the Roma community as a priority area. ECRI notes that, since its second report, a vocational training project targeted at the Roma population of the Vilnius area has been carried out. However, this measure has reportedly not been successful – for instance, none of the participants has reportedly been able to secure employment as a result of this training. The Vilnius Municipality has reported to ECRI that it has offered public employment opportunities for the Roma of Kirtimai. ECRI welcomes the fact that a project supported by the European Union EQUAL programme and aimed at developing mechanisms for integration of Roma in the labour market is starting to be implemented.

Recommendations:

91. ECRI recommends that the Lithuanian authorities take steps to improve the employment situation of the Roma community of Lithuania. It underlines the need to take into account, in this framework, the need to address discrimination.
92. In its second report, ECRI recommended that the Lithuanian authorities take steps to address the health situation of the members of the Roma community. ECRI is pleased to note that since its second report some initiatives have been taken to improve Roma's access to healthcare services, notably through the recruitment of medical staff who pay visits to the settlement. It has been noted, however, that provision of such services is not guaranteed. Other initiatives have

included the provision by the Vilnius Municipality of mobile services for prevention and treatment of HIV, a particularly important measure due to the reportedly high levels of drug addiction in the settlement.

Recommendations:

93. ECRI recommends that the Lithuanian authorities strengthen their efforts to ensure that all Roma enjoy adequate access to primary and secondary healthcare and to improve their general health situation.
94. In its second report, ECRI recommended that the Lithuanian authorities take measures to facilitate access to citizenship for Roma who had lived in Lithuania for a long time and were nevertheless without Lithuanian citizenship. The Lithuanian authorities have stated that, out of the approximately 2 500 Roma living in Lithuania³⁶, around 2 000 are Lithuanian citizens and that most of those who are non-citizens possess residence permits. The Lithuanian authorities have stated that, since ECRI's second report, they have helped Roma applicants for naturalisation to obtain the necessary documentation and that a considerable number of Roma have been able to obtain citizenship or residence permits (180 in 2003-2004). However, ECRI has continued to receive reports according to which Roma are unable to access certain social services, notably public housing and unemployment benefits due to lack of citizenship, legal residency or other personal documents.

Recommendations:

95. ECRI recommends that the Lithuanian authorities further investigate the situation as concerns Roma's possession of citizenship, residence permits and other personal documents and take measures to facilitate the acquisition of the relevant documentation.
96. In its second report, ECRI urged the Lithuanian authorities to investigate all alleged cases of police misconduct suffered by members of the Roma communities and recommended that they provide information to the members of these communities about avenues for reporting police misconduct. ECRI is not aware of cases filed by Roma against police officers. However, as mentioned above³⁷, it has continued to receive reports according to which members of the Roma community are sometimes subject to actions of the police, especially aimed at clamping down on drug trafficking, which target members of this community indiscriminately. ECRI notes that some efforts have been made in the framework of the Programme to discuss this issue with representatives of the Roma community and that efforts to establish dialogue with this community on policing issues are reportedly continuing. ECRI also notes that since its second report a police post has been established at the Kirtimai Roma settlement.
97. In general, it has been reported to ECRI that the Lithuanian authorities have not communicated widely and positively on the Programme. As a result, public opinion reportedly remains largely unconvinced of the need for special measures to promote equal opportunities for the Roma population of Lithuania and often expresses outright hostility towards any such measures.

Recommendations:

98. ECRI recommends that the Lithuanian authorities make additional efforts to engage in a constructive dialogue with the members of the Roma communities on

³⁶ Civil society organisations evaluate the total number of Roma living in Lithuania to be around 3 000.

³⁷ See Law enforcement officials.

issues of policing. In particular, it reiterates its recommendation that the Lithuanian authorities provide information to the Roma community about avenues for reporting police misconduct and thoroughly investigate all alleged cases of police misconduct towards members of this community.

99. ECRI recommends that the Lithuanian authorities communicate widely and in a positive manner on any new integration programme focusing on the Roma population. In particular, ECRI considers that such communication efforts should focus around the idea that overcoming the exclusion of certain groups is in the interest and responsibility of the general public and that, given the current situation of serious disadvantage faced by the Roma in all fields of life, time and resources must be devoted to giving this sector of Lithuanian society the same opportunities as the rest of the population.

Asylum seekers and refugees

100. Since ECRI's second report, Lithuania has reformed its legislation on asylum seekers and refugees. On 29 April 2004, the Lithuanian Parliament adopted the Law on the Legal Status of Aliens (hereafter "Aliens Law"), which replaced the 1995 Law on Refugee Status and the 1998 Law on the Legal Status of Aliens. The new Aliens Law contains some provisions which enhance refugee protection, including the introduction of a unified procedure for a comprehensive evaluation of the protection needs under both the Refugee Convention and the subsidiary protection regime, or the establishment of provisions for granting temporary protection. In general, however, national and international observers consider that, compared to the legal framework in force at the time of ECRI's second report, the Aliens Law represents a clear step back for refugee protection in several areas. These areas are examined in more detail below.
101. In its second report, ECRI noted that almost all asylum seekers whose requests had been positively assessed were granted humanitarian protection and not refugee status under the Convention relating to the Status of Refugees. It therefore recommended that the Lithuanian authorities ensure that all persons entitled to refugee status actually secure such status. ECRI notes that, although there has been some progress – one person was granted refugee status under the Convention in 2002, three in 2003 and 14 in 2004 -- the number of persons granted refugee status is still very low. ECRI also notes that all persons recognised as refugees obtained such status through the first instance decision issued by the Migration Department, and that there is no one single decision of this type issued on appeal by the administrative courts. ECRI furthermore notes that since 2000 there have been no cases of recognition of female refugees who were the principal applicants.
102. In its second report, ECRI recommended that the Lithuanian authorities strengthen the capacity of the administrative courts to deal effectively with the examination of asylum appeals. ECRI notes that the United Nations High Commissioner for Refugees (UNHCR) has provided training to these courts and that further training is planned.

Recommendations:

103. ECRI reiterates its call on the Lithuanian authorities to ensure that all persons entitled to refugee status under the Convention relating to the Status of Refugees actually secure such status. To this end, it recommends in particular that further efforts be made to enhance the capacity of the administrative courts to deal effectively with asylum appeals cases. ECRI also recommends that the Lithuanian authorities raise the awareness of all those involved in the asylum determination procedure of gender-specific aspects of asylum.

104. In its second report, ECRI recommended that the Lithuanian authorities take action to ensure that the safeguards in place against automatic detention of asylum seekers are applied in practice. ECRI notes, however, that the Aliens Law has expanded the grounds on which asylum seekers can be detained. In practice, the vast majority of asylum seekers are reportedly detained and only gain access to measures alternative to detention following individual consideration of their cases by the courts. It has been reported to ECRI that court practice and timely interventions of non-governmental organisations and lawyers have so far managed to limit detention of most asylum seekers to a duration of between two and four weeks. However, ECRI notes that there have been cases of much longer detention of asylum seekers and that, in many cases, women and children have also been detained.

Recommendations:

105. ECRI recommends that the Lithuanian authorities ensure that asylum seekers only be detained when it is absolutely necessary and that measures alternative to detention be used in all other cases. It recommends, in particular, that children are not kept in detention.

106. In its second report, ECRI noted that transit through a safe third country was the only ground on which the Lithuanian authorities could refuse an asylum seeker admission to the territory of Lithuania. ECRI recommended that in all cases of negative decisions on admission, adequate time be available to the asylum seeker to contact a legal representative and file an appeal. ECRI notes that, in accordance with the Aliens Law, an asylum seeker may now also be refused admission to the territory on “safe country of origin” grounds and on grounds that the claim is manifestly unfounded, although the Lithuanian authorities have pointed out that, in these cases, the merits of the individual asylum claims are examined and procedural safeguards are guaranteed. ECRI furthermore notes that the Aliens Law has shortened the terms for appeal for all asylum-relevant decisions, including the decisions on admission to the territory, from 14 to 7 days³⁸. It has been pointed out that the general term for appeals against administrative decisions in Lithuania is 30 days and that therefore the introduction of such a disproportionately shorter term for non-citizens to challenge administrative decisions under the Aliens Law may raise issues of discrimination.

Recommendations:

107. ECRI recommends that the Lithuanian authorities keep the list of grounds for refusing asylum seekers admission to the territory under review in order to ensure that refugees are not prevented from obtaining protection in Lithuania. It also recommends that adequate time be made available for asylum seekers to challenge all asylum-relevant decisions concerning them, including decisions on admission to the territory. In this respect, ECRI strongly encourages the Lithuanian authorities to ensure that non-citizens, including asylum seekers, do not suffer discrimination in exercising their right to appeal against administrative decisions.

108. In its second report, ECRI noted reports according to which asylum seekers on transit trains running between the main territory of the Russian Federation and its Kaliningrad enclave had been prevented by Lithuanian border guards from disembarking from the train and applying for asylum in Vilnius train station. It has been reported to ECRI that, since then, asylum seekers have stopped using this route to apply for asylum in Lithuania. The Lithuanian authorities have stated that

³⁸ These terms run from the day of the adoption of the decision, and not from the day when the asylum seeker actually became aware of the decision.

they have no knowledge of such occurrences. Since its second report, ECRI has continued to receive reports according to which border guards sometimes ignore asylum applications. In this respect ECRI notes that, in spite of continuous arrivals of asylum seekers, particularly Chechens, to the country, cases where asylum applications are registered at border check points are extremely rare. It has also been pointed out to ECRI that persons detained as migrants without legal status at the Aliens Registration Centre in Pabrade do not have access to legal assistance and that this may hamper access of potential asylum seekers to the asylum procedure.

109. In its second report, ECRI expressed concern at the fact that the possibility of refusing subsidiary protection on national security grounds may result in *refoulement* of persons in need of protection. ECRI notes that the Aliens Law has mainstreamed national security and public order considerations into all aspects of asylum and refugee law, including the deliverance of residence permits, deportation and detention. As concerns this last area, ECRI notes in particular that the provisions of the Aliens Law open significant scope for indefinite detention of those asylum seekers who are considered to pose a threat to national security or public order. Although it recognises that national security and public order are legitimate State concerns, ECRI considers that their general prevalence over the rights of asylum seekers and refugees may jeopardise the availability of effective protection for these categories of persons in Lithuania.

Recommendations:

110. ECRI reiterates its call on the Lithuanian authorities to ensure that all potential asylum seekers are able to access the asylum procedure in practice.
111. ECRI urges the Lithuanian authorities to ensure that national security and public order considerations do not jeopardise the rights of asylum seekers and refugees to seek and obtain effective protection in Lithuania.
112. In its second report, ECRI noticed that both recognised refugees and persons granted humanitarian protection could benefit from state-funded social integration measures. However, once entitlement to social integration measures was over, persons granted humanitarian protection were excluded from social security and health care provision, since access to these rights was conditional to possession of permanent residence, which was granted only to recognised refugees. ECRI expressed concern at this situation, especially in consideration of the fact that the vast majority of asylum seekers were granted humanitarian protection and not refugee status. ECRI notes that, since its second report, state-funded social integration measures provided to recognised refugees and persons granted humanitarian protection can be prolonged without time limits. It has been reported to ECRI that, in practice, this extension has so far applied to the most vulnerable from among these persons, notably women with children. Nevertheless, ECRI notes that, once entitlement to state-funded social integration measures is over, the situation is still as described in its second report. However, ECRI is pleased to note that amendments to the health insurance legislation adopted in May 2005 have included in the regular health care system those children, sick persons, persons of pensionable age, pregnant women and single parents with minor children who have been granted humanitarian protection. To ECRI's knowledge, no similar initiatives are being discussed as concerns social security legislation.

Recommendations:

113. ECRI recommends that the Lithuanian authorities ensure that persons granted humanitarian protection have adequate access to social security and health care services. ECRI therefore encourages the Lithuanian authorities to adopt the

amendments which will include children, the elderly and the disabled who have been granted humanitarian protection in the regular health care system.

114. Since ECRI's second report, the system of reception of asylum seekers has undergone significant changes. The Aliens Law provides that the Aliens Registration Centre in Pabrade is the only accommodation facility for asylum seekers except for unaccompanied minors. However, ECRI notes reports according to which this centre, where migrants without legal status are also detained in separate facilities, lacks the infrastructure and character of a social institution. For instance, although the services provided by the Lithuanian Red Cross palliate this situation, no social, psychological and rehabilitation services are available.
115. ECRI also notes that the Aliens Law requires non-EU nationals, including recognised refugees, to have resided for at least two years in Lithuania before they can be joined by their family members in Lithuania. In addition, the Aliens Law does not recognise the right of an unaccompanied minor to reunify with his or her parents in Lithuania.

Recommendations:

116. ECRI recommends that the Lithuanian authorities ensure that persons seeking asylum in Lithuania benefit from adequate reception facilities, notably as concerns the areas mentioned above.
117. ECRI urges the Lithuanian authorities to ensure that the right to family reunification of non-citizens living in Lithuania, and notably recognised refugees, is thoroughly respected.
118. In its second report, ECRI noted that the media had sometimes sensationalised incidents concerning asylum seekers and contributed to exacerbating negative stereotypes around these persons. Civil society organisations have reported to ECRI that the situation has not improved in this respect since ECRI's second report and that Chechens are a particularly frequent target of stigmatising or stereotyping coverage by the media. ECRI is pleased to learn about a joint project initiated by UNHCR, the Lithuanian Red Cross and the Institute of Journalism of Vilnius University which aims at promoting a better image of non-citizens and particularly asylum seekers and refugees in Lithuania, including by providing objective information to journalists and specific training to young media professionals.

Recommendations:

119. ECRI strongly recommends the Lithuanian authorities support civil society initiatives which aim to counter stigmatising or stereotyping media reports on asylum seekers and refugees and promote respect of non-citizens, particularly asylum seekers and refugees.

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