



**LIETUVOS RESPUBLIKOS NUOLATINĖ ATSTOVYBĖ PRIE
JUNGTINIŲ TAUTŲ BIURO IR KITŲ TARPTAUTINIŲ
ORGANIZACIJŲ ŽENEVOJE**

**MISSION PERMANENTE DE LA LITUANIE AUPRÈS DE
L'OFFICE DES NATIONS UNIES ET DES AUTRES
ORGANISATIONS INTERNATIONALES À GENÈVE**

No.: SN-199/2006

The Permanent Mission of the Republic of Lithuania to the United Nations Office and other International Organisations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights (OHCHR) and has the honour to submit Supplementary information regarding implementation of Recommendations by the UN Committee Against Torture in the Republic of Lithuania.

Also we would like to inform that Lithuania already submitted the Joint Second and Third Periodic Report of the Republic of Lithuania on UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The Permanent Mission of the Republic of Lithuania to the United Nations Office and other International Organisations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights assurances of its highest consideration.



Geneva, 20 October 2006

To the Office of the High Commissioner
for Human Rights
GENEVA

OHCHR REGISTRY

25 OCT. 2006

Recipients :...*C.A.T.*.....

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**SUPPLEMENTARY INFORMATION REGARDING IMPLEMENTATION OF
RECOMMENDATIONS BY THE UN COMMITTEE AGAINST TORTURE
IN THE REPUBLIC OF LITHUANIA**

1. Supervision of prosecutors' procedural acts is envisaged in Art. 4(3) of the Law on Prosecutors' Office, which runs as follows:

"Procedural acts of prosecutors are supervised by a higher-ranking prosecutor and a court. A higher prosecutor and a court establish violations of procedural laws made by prosecutors and quash illegal decisions".

Such supervision of prosecutors' acts is effected also in those cases when decisions regarding medical examination of detainees are made.

A higher-ranking prosecutor effects supervision of a prosecutor's procedural acts when (1) a prosecutor reports to a higher-ranking prosecutor on the work done, (2) a higher-ranking prosecutor checks their work, or (3) a higher-ranking prosecutor examines individual complaints, requests and statements regarding a prosecutor's procedural acts.

Procedural acts by a prosecutor are also supervised by a pre-trial investigation judge who under Art. 173(1)(6) of the Code of Criminal Procedure is empowered to examine complaints by participants of criminal proceedings regarding a prosecutor's procedural actions.

A detainee is entitled to submit a request to a prosecutor asking for medical examination of effects of torture suffered by them in the course of detention. The procedure to be followed in examining a request of this kind is set out in Art. 178 of the Code of Criminal Procedure. This article also establishes that upon declining a request a prosecutor is obliged to draw up a decision which can be appealed against by a complainant to a pre-trial investigation judge. A pre-trial investigation judge within 3 days from the receipt of the request must examine it and to adopt one of the following decisions: (1) to reject a complaint and leave the prosecutors' decision in force, or (2) to quash the prosecutor's decision and to obligate them to effect the requested procedural action, i.e. that person's medical examination. When a pre-trial investigation judge quashes a prosecutor's decision, this decision by a pre-trial investigation judge must be enforced by the prosecutor as soon as possible.

Thus, where a prosecutor refuses to grant a detainee's request to effect their medical examination regarding possibly suffered violence or torture and by doing this violates certain rights of a person, there exists a legal mechanism to protect this person's rights and, if need be, to change the prosecutors' decision.

2. Administrative courts of the Republic of Lithuania are competent to examine complaints of detainees regarding violations of their individual rights made by administrative institutions. The European Court of Human Rights has acknowledged that addressing administrative courts is an effective domestic remedy in the case of complaints under Art. 3 (prohibition of torture) of the European Convention for the Protection of Human Rights and Fundamental Freedoms in the Republic of Lithuania (see e.g. ECHR admissibility decision of 16 December 2003 in the case of *Jankauskas v. Lithuania*, application no. 59304/00). Therefore, regulation in the law of the Republic of Lithuania of the right of detainees to submit complaints regarding torture is to be regarded as sufficient.

3. During the period of the 1st of January 2006 to the 1st of September 2006 Seimas Ombudsmen's Office of the Republic of Lithuania examined 69 complaints regarding allegedly illegal actions by pre-trial investigation officials, 15 complaints regarding alleged use of physical or

psychological violence, 19 complaints regarding alleged procrastination in conducting pre-trial investigation.

Breakdown by institutions involved of complaints regarding allegedly illegal actions by pre-trial investigation officials admitted for examination is presented in the following table.

Institution	Number of decisions adopted		
	Substantiated	Rejected as unsubstantiated	Investigation discontinued
Office of the Prosecutor General and subordinate institutions	2	10	12
Ministry of the Interior and subordinate institutions	6	22	17
Total:	8	32	29

Breakdown by institutions involved of complaints regarding alleged use of physical or psychological violence admitted for examination is presented in the following table.

Institutions	Number of decisions adopted		
	Substantiated	Rejected as unsubstantiated	Investigation discontinued
Office of the Prosecutor General and subordinate institutions	1	2	1
Ministry of the Interior and subordinate institutions	1	6	4
Total:	2	8	5

Breakdown by institutions involved of complaints regarding alleged procrastination in conducting pre-trial investigation admitted for examination is presented in the following table.

Institution	Number of decisions adopted		
	Substantiated	Rejected as unsubstantiated	Investigation discontinued
Office of the Prosecutor General and subordinate institutions	1	5	1
Ministry of the Interior and subordinate institutions	1	8	3
Total:	2	13	4

Subject-matter of the complaints reveals the following possibly problematic issues of pre-trial investigation: application of informal procedures (absence of human rights safeguards in such cases), detention in the short-term detention centres located outside the area of alleged crime (possible poor detention conditions in such centres, use of it as psychological pressure), close relations (being situated in the same building, shared work) between those institutions whose actions are complained against and those which conduct supervision (doubts as to objective and impartial nature of pre-trial investigation in such cases).

4. As detainees have a possibility of submitting complaints to administrative courts and this domestic remedy is effective, the question of establishing an independent body of appeals for detainees is not particularly urgent.

5, 6. Complaints by member of the armed forces regarding alleged violence and illegal use of force may be submitted by means of the "Hot Line" to the General Inspection or by means of ordinary procedures to the Seimas Ombudsmen's Office of the Republic of Lithuania, Office of Prosecutor General, etc.

Lithuanian Military Police conducts pre-trial investigation upon receipt of notifications or complaints regarding the use of violence among members of the armed forces. Pre-trial investigation is conducted in accordance with the procedure set out in the Code of Criminal Procedure. Upon conclusion of pre-trial investigation the case-file is transmitted to the prosecutor for the purpose of drawing up of the act of indictment.

In 2005 the Military Police conducted 13 sets of pre-trial investigation regarding alleged use of violence among members of the armed forces. Out of these, 2 sets of pre-trial investigation were discontinued due to the lack of sufficient evidence of perpetrators' guilt, 8 cases were transmitted to the Prosecutors' Office for the purpose of drawing up of the act of indictment, and the remaining sets of pre-trial investigation are still in progress.

In the months of January to August of 2006 the Military Police initiated 9 sets of pre-trial investigation regarding allegations of the use of violence among members of the armed forces. Out of these, 3 cases have been transmitted to the Prosecutors' Office for the purpose of drawing up of the act of indictment, and the remaining sets of pre-trial investigation are still in progress.

Vilnius, 2006-10-02