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COMMITTEE AGAINST TORTURE  
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## **ADVANCE UNEDITED VERSION**

### **CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION**

#### **Concluding observations of the Committee against Torture**

#### **LITHUANIA**

1. The Committee considered the second periodic report of Lithuania (CAT/C/LTU/2) at its 838th and 841st meetings (CAT/C/SR.838 and 841), held on 4 and 5 November 2008, and adopted, at its 857<sup>th</sup> meeting (CAT/C/SR.857), the following conclusions and recommendations.

#### **A. Introduction**

2. The Committee welcomes the submission of the second periodic report of Lithuania and the information presented therein, and expresses its appreciation for the replies by the State party to the follow-up procedure of the Committee. The Committee also expresses its appreciation for the State party's thorough written responses to the list of issues (CAT/C/LTU/Q/2/Add.1), which provided additional information on the legislative, administrative, judicial and other measures taken by the State party in order to prevent acts of torture and other cruel, inhuman or degrading treatment or punishment. Furthermore, the Committee notes with satisfaction the constructive efforts made by the multi-sectoral State party delegation to provide additional information and explanation during the dialogue.

#### **B. Positive aspects**

3. The Committee welcomes that in the period since the consideration of the last periodic report, the State party has ratified the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, on 5 August 2004 and acceded to the Optional

Protocol to the United Nations Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, on 5 August 2004.

4. The Committee notes with satisfaction the ongoing efforts at the State level to reform its legislation, policies and procedures in order to ensure better protection of human rights, including the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, in particular:

- (a) The Law on Equal Treatment which came into force on 1 January 2005 with the purpose to ensure the implementation of human rights laid down in the Constitution and to prohibit any direct or indirect discrimination based upon age, sexual orientation, disability, racial or ethnic origin, religion, or beliefs;
- (b) The 2007 Law on the Amendment of the Law on Equal Treatment which incorporates the provisions of Council Directive 2000/43/EC of 29 June 2000, implementing the principle of equal treatment between persons irrespective of racial or ethnic origin;
- (c) The Code of Conduct of Officers of the Prison Department and Its Subordinate Institutions and the 2004 Code of Ethics for Lithuanian Police Officials adopted by Order No 347 of the Commissioner General of the Lithuanian Police;
- (d) The 2007 Concept of the Probation System in Lithuania and the plan of implementing measures for this concept; and
- (e) The Mental Health Strategy approved by the Seimas on 3 April 2007 and the adoption by the Government on 18 June 2008 of the State Mental Health Strategy Implementation Programme for 2008-2010.

### **C. Principal subjects of concern and recommendations**

#### **Definition of torture**

5. The Committee notes the State party's statement that under the Lithuanian Criminal Code all acts that may be described as "torture" within the meaning of article 1 of the Convention are punishable, as well as the explanation provided by the delegation in this respect. However, the Committee is concerned that the State party has not incorporated into domestic law the crime of torture as defined in article 1 of the Convention. The Committee also regrets the lack of information provided as to whether the offence of torture, which is punishable under other provisions of the Criminal Code, may in some cases be subject to a statute of limitations. The Committee is of the view that acts of torture cannot be subject to any statute of limitations. (arts. 1 and 4)

**The State party should incorporate into domestic law the crime of torture and adopt a definition of torture that covers all the elements contained in article 1 of the Convention. By naming and defining the offence of torture in accordance with the Convention and distinct from other crimes, the Committee considers that States parties will directly advance the Convention's overarching aim of preventing torture, inter alia, by alerting everyone, including perpetrators, victims, and the public, to the special gravity of the crime of torture and by improving the deterrent effect of the prohibition itself. The Committee recommends that the State party review its rules and provisions on the statute of limitations to ensure that they are fully in line with its obligations under the Convention, so that acts of torture as well**

**as attempts to commit torture and acts by any person which constitute complicity or participation in torture, as established by article 1 of the Convention, can be investigated, prosecuted and punished without time limitations.**

### **National human rights institution**

6. The Committee notes the existence of the Lithuanian Ombudsman's Offices, including the Seimas Ombudsman. However, it regrets the lack of information provided on the number of complaints of alleged ill-treatment or torture received by the Seimas Ombudsman's Office, the number of investigations carried out by this office, the number of these cases that went to trial, and the outcomes of such trials, including information on the kinds of punishments meted out and compensation offered to victims, if any. The Committee also regrets the lack of information on the human and financial resources allocated to the office. (art. 2)

**The State party should take appropriate measures to ensure the effective functioning of the Ombudsman institution, including the requisite human and financial resources. The State party should provide more information in its next periodic report as to whether any cases concerning ill-treatment perpetrated by police officers and other officials were opened or investigated. The State party is encouraged to seek accreditation with the International Coordinating Committee of National Human Rights Institutions to ensure that it complies with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), annexed to General Assembly resolution 48/134, including with regard to its independence.**

### **Fundamental safeguards**

7. The Committee notes the adoption by the Minister of Health of the 2004 Order No. V-8, regulating the objectives and functions of medical stations at detention facilities. However, the Committee notes with concern that the Order may not provide detainees the right to request and receive a medical examination by a doctor at their own request. It also regrets the lack of information on the number of doctors currently working in detention facilities, and the system in place to ensure that detainees may have such access. (arts. 2 and 16)

**The State party should take effective measures to ensure that all detainees are afforded fundamental legal safeguards in practice, including the right to have access to a doctor. The Committee recommends that the State party provide more information on the number of doctors currently working in detention facilities, and the system in place to ensure that detainees may have such access.**

### **Asylum-seekers**

8. The Committee welcomes the information provided by the delegation that the Law on the Legal Status of Aliens (the Aliens Law) has been amended in November 2006 and that asylum seekers are now exempt from detention, even in cases where they enter or stay illegally in the State party. While noting that the State party provides mandatory medical screening to newly arrived asylum-seekers upon arrival to the accommodation facilities at the Foreigners' Registration Centre (FRC) in Padrade, the Committee is concerned that there is no mechanism in place to identify persons with special needs and possible victims of torture or ill-treatment. The Committee is also concerned that all asylum-seekers, including single women or women with

children, and traumatized asylum-seekers, are accommodated in the same building. (arts. 2 and 16)

**The Committee recommends that the State party take the necessary steps to ensure appropriate reception conditions for asylum-seekers with special needs, such as single women or women with children, and traumatized asylum-seekers, by providing them with separate accommodation. The Committee further recommends that medical personnel, social staff in reception centres and others involved in the refugee status determination procedure should receive thorough training and sensitization in respect of victims of torture or ill-treatment in order to identify such cases at an early stage for referral to the appropriate medical and psychosocial services.**

### **Non-refoulement**

9. While noting that article 130 of the Aliens Law provides for prohibition of refoulement, whenever there are serious grounds to believe that the person concerned will be tortured or subjected to cruel, inhuman or degrading treatment, the Committee notes with concern that the principle of non-refoulement does not apply with respect to an alien who, for serious reasons, constitutes a threat to the security of the Republic of Lithuania or has been convicted by an effective court judgement of a serious or grave crime and constitutes a threat to the public. (art. 3)

**The State party should ensure that it complies fully with article 3 of the Convention and that individuals under the State party's jurisdiction receive appropriate consideration by its competent authorities and guaranteed fair treatment at all stages of the proceedings, including an opportunity for effective, independent and impartial review of decisions on expulsion, return or extradition.**

**In this respect, the State party should ensure that the relevant judicial and administrative authorities carry out a thorough and exhaustive examination, prior to making any expulsion order, in all cases of foreign nationals who have entered or stayed in Lithuania unlawfully, including individuals who may constitute a security threat, in order to ensure that the persons concerned would not be subjected to torture, inhuman or degrading treatment or punishment in the country where they would be returned.**

### **Training**

10. The Committee notes with appreciation the approval of the 2006 Lithuanian Police System Development Programme with the objective, inter alia, to create an integrated management system for the selection, training, qualification improvement and retraining of police personnel, as well as the 2007 Plan of Measures for Implementing the Development Programme. The Committee also notes the detailed information provided by the State party on training programmes and sessions for law enforcement officials, prison staff, border guards, migration officials, officers of correctional inspection departments, health care specialists and psychologists, etc. However, the Committee regrets the limited information on monitoring and evaluation of these training programmes and the lack of available information on the impact of the training conducted for all relevant officials, including law enforcement officials, prison staff

and border guards, and how effective the training programmes have been in reducing incidents of torture and ill-treatment. (art. 10)

**The State party should further develop educational programmes to ensure that all officials, including law enforcement officials, prison staff and border guards are fully aware of the provisions of the Convention, that breaches will not be tolerated and will be investigated, and that offenders will be prosecuted. All relevant personnel should receive specific training on how to identify signs of torture and ill-treatment. The Committee recommends that the Istanbul Protocol (Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) become an integral part of the training provided to physicians and that the Manual is translated into the Lithuanian language. Furthermore, the State party should develop and implement a methodology to assess the effectiveness and impact of such training/educational programmes on the reduction of cases of torture, violence and ill-treatment.**

### **Pre-trial detention**

11. The Committee notes the changes that have occurred in the legal regulation of the operation of police detention facilities, including the approval in May 2007 of the Rules of Procedure of the Detention Facilities of Territorial Police Establishments and the Manual for Security and Maintenance of Detention Facilities of Territorial Police Establishments. The Committee also notes the Law on the Execution of Detention which will enter into force on 1 April 2009, which stipulates the conditions for keeping detainees in pre-trial wards and sets forth a clear and direct prohibition to subject a person to torture or cruel or degrading treatment upon the execution of detention. However, the Committee remains concerned at reports of prolonged pre-trial detention and administrative detention, of both minors and adults, and the high risk of ill-treatment which it entails and regrets the lack of use of alternatives to imprisonment. (arts. 2, 11 and 16)

**The State party should take appropriate measures to further reduce the duration of detention in custody and detention before charges are brought, and develop and implement alternatives to deprivation of liberty, including probation, mediation, community service or suspended sentences.**

### **Conditions of detention**

12. The Committee is concerned that notwithstanding the measures taken by the State party to improve conditions of detention, including in the context of the 2004 Programme of Renovation of Detention Facilities and Improvement of Conditions for Persons Held in Detention, there is continuing overcrowding in places of detention, in particular in Pre-Trial Wards and the Hospital of Imprisonment Institutions. While noting that conditions of detention have improved considerably in recent years, the Committee is concerned at the overall conditions in some prisons and Pre-Trial Wards, including unsuitable infrastructures and unhygienic living conditions. Furthermore, while noting the implementation of violence prevention programmes in places of imprisonment, the Committee is concerned at the occurrence of inter-prisoner violence and lack of statistical data that may provide breakdown by relevant indicators to facilitate determination of root causes and design of strategies to prevent and reduce such occurrences. (arts. 11 and 16)

**The Committee recommends that the State party should:**

- a) **Continue its efforts to alleviate the overcrowding of penitentiary institutions, including Pre-Trial Wards and the Hospital of Imprisonment Institutions, including through the application of alternative measures to imprisonment and the increase of budgetary allocations to develop and renovate the infrastructure of prisons and other detention facilities;**
- b) **Take effective measures to further improve living conditions in the detention facilities, including prisons and Pre-Trial Wards;**
- c) **Take effective steps to systematically and effectively monitor all places of detention; and**
- d) **Monitor and document incidents of inter-prisoner violence with a view to revealing root causes and designing appropriate prevention strategies and provide the Committee with such data, disaggregated by relevant indicators.**

#### **Excessive use of force and ill-treatment**

13. The Committee expresses its concern at the number of allegations of excessive use of force and ill-treatment by law enforcement officials, and the low number of convictions in such cases. In addition, the Committee regrets the lack of statistical data on complaints, prosecutions and sentences in respect of excessive use of force and ill-treatment by law enforcement officials. (arts. 4, 12 and 16)

**The State party should take effective measures to send a clear and unambiguous message to all levels of the police force hierarchy that torture, ill-treatment and excessive use of force are unacceptable, including through the enforcement of the 2004 Code of Ethics for Lithuanian Police Officials, and ensure that law enforcement officials only use force when strictly necessary and to the extent required for the performance of their duty. Referring to article 4, paragraph 2, of the Convention, the Committee underlines that the State party should apply sanctions that are proportional with the offences, and the State party is encouraged to initiate the collection of statistics on disciplinary penalties imposed.**

#### **Prompt, thorough and impartial investigations**

14. The Committee regrets the lack of information on the system in place to review individual complaints about police misconduct and it is concerned at the number of complaints of use of force and ill-treatment by law enforcement officials, the limited number of investigations carried out by the State party in such cases, and the very limited number of convictions in those cases which are investigated. (arts. 12 and 16)

**The Committee recommends that the State party should:**

- (a) **Strengthen its measures to ensure prompt, thorough, impartial and effective investigations into all allegations of torture and ill-treatment committed by law enforcement officials. In particular, such investigations should not be undertaken by or under the authority of the police, but by an independent body. In connection with prima facie cases of torture and ill-treatment, the alleged suspect should as a rule be**

**subject to suspension or reassignment during the process of investigation, especially if there is a risk that he or she might impede the investigation; and**

**(b) Try the perpetrators and impose appropriate sentences on those convicted in order to eliminate impunity for law enforcement personnel who are responsible for violations prohibited by the Convention.**

### **Ill-treatment of conscripts**

15. While noting the information provided by the delegation, the Committee remains concerned at allegations of ill-treatment of conscripts in the army. (art. 16)

**The State party should ensure prompt, impartial and thorough investigations into all allegations of ill-treatment of conscripts in the army and prosecute and punish perpetrators with appropriate penalties. In this respect, the State party should ensure that all examinations of complaints against military personnel are carried out by an independent and impartial body. The State party is encouraged to provide detailed information on the effective measures adopted to prevent and combat such acts.**

### **Compensation and rehabilitation**

16. While noting the adoption of the Law on the Compensation for the Damage caused by Violent Crimes and the establishment of the Crime Victims Fund, the Committee regrets the insufficient information regarding the number of victims of torture and ill-treatment who may have received compensation and the amounts awarded in such cases, as well as the lack of information on treatment and social rehabilitation services and other forms of assistance, including medical and psycho-social rehabilitation, provided to these victims. The Committee further regrets the lack of a specific programme to safeguard the rights of victims of torture and ill-treatment. (art. 14)

**The State party should strengthen its efforts in respect of compensation, redress and rehabilitation in order to provide victims with redress and fair and adequate compensation, including the means for as full rehabilitation as possible. The State party should develop a specific programme of assistance in respect of victims of torture and ill-treatment. Furthermore, the State party should provide in its next periodic report information about any reparation programmes, including treatment of trauma and other forms of rehabilitation provided to victims of torture and ill-treatment, as well as the allocation of adequate resources to ensure the effective functioning of such programmes. The State party is encouraged to adopt the proposed amendment to the Law on the Compensation for the Damage caused by Violent Crimes which was submitted to the Seimas on 31 October 2007.**

17. The Committee is concerned at the insufficient prosecution and sentencing of those criminally responsible for crimes against humanity, including possible acts of torture, committed during the Nazi and Soviet occupations. The Committee is also concerned at the lack of information on rehabilitation and other measures provided to the victims. (arts. 12 and 14)

**The Committee considers that failure to prosecute, and failure to provide adequate rehabilitation all contribute to a failure of the State party to meet its obligations under the Convention to prevent torture and ill-treatment, including through**

**educational and rehabilitation measures. The State party should ensure prompt, impartial and thorough investigations into all such motivated acts and prosecute and punish perpetrators with appropriate penalties which take into account the grave nature of their acts, and provide rehabilitation measures to the victims, including steps to prevent impunity.**

#### **Prohibition of any statement obtained under torture from being invoked as evidence**

18. The Committee expresses its concern at the fact that the State party does not have uniform legislation, ensuring that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, as required by article 15 of the Convention.

**The State party should ensure that legislation concerning evidence to be adduced in judicial proceedings is brought in line with the provisions of article 15 of the Convention so as to exclude explicitly any evidence obtained as a result of torture.**

#### **Rights of vulnerable groups and discrimination**

19. While noting a number of measures adopted by the State party, including the Strategy for the Development of the Ethnic Minorities Policy until 2015, the Programme for the Integration of the Romany into the Lithuanian Society for 2008-2010 and the National Antidiscrimination Programme for 2006-2008, the Committee is concerned at reports of ill-treatment and discrimination of ethnic minorities, especially Roma. In this respect, the Committee is concerned at information indicating that instances of ill-treatment by law enforcement officials, in particular the police, are often directed at persons belonging to ethnic minorities. The Committee is also concerned at the lack of information on the number of hate crimes in the country and on the existence of a recording and monitoring system in respect of hate crimes. (art. 16)

**The State party should intensify its efforts to combat discrimination and ill-treatment of ethnic minorities, in particular Roma, including through the strict application of relevant legislation and regulations providing for sanctions. The State party should ensure prompt, impartial and thorough investigations into all such motivated acts and prosecute and punish perpetrators with appropriate penalties which take into account the grave nature of their acts, and ensure adequate training and instructions for law enforcement bodies and sensitization of the judiciary. The State party is encouraged to provide detailed information in its next periodic report on the number of hate crimes and the effective measures adopted to prevent and combat such acts. The Committee notes the information provided by the State party that a new national antidiscrimination programme for 2009-2011 is being prepared and calls upon the State party to ensure the necessary budgetary allocations for its effective implementation.**

#### **Domestic violence**

20. The Committee notes various measures undertaken by the State party, including the approval of the Government on 22 December 2006 of a long-term State Strategy on the Reduction of Violence against Women and a Plan of Implementing Measures 2007-2009. However, the Committee expresses its concern about the high prevalence of violence against

women and children, including domestic violence, and it regrets the absence of a definition of domestic violence in national legislation and that such violence is not recognized as a specific crime. The Committee also regrets that the number of crisis centres, which have mostly been established and are operated on the initiative of NGOs, is insufficient due to lack of financial governmental support. While noting that territorial police establishments have started collecting, accumulating and analyzing data related to domestic violence, the Committee regrets the lack of State-wide statistics on domestic violence and that statistical data on complaints, prosecutions and sentences in matters of domestic violence were not provided. (arts. 1, 2, 12 and 16)

**The State party should increase its efforts to prevent, combat and punish violence against women and children, including domestic violence. The Committee calls upon the State party to allocate sufficient financial resources to ensure the effective implementation of the State Strategy on the Reduction of Violence against Women and to closely monitor the results achieved. The State party should adopt a specific type of criminal offence for domestic violence. The State party is encouraged to participate directly in rehabilitation and legal assistance programmes and it should ensure that all women who are victims of domestic violence have access to a sufficient number of safe and adequately funded shelters. The State party is also encouraged to conduct broader awareness campaigns for officials (judges, law officers, law-enforcement agencies and welfare workers) who are in direct contact with the victims. Furthermore, the Committee recommends that the State party strengthen its efforts in respect of research and data collection on the extent of domestic violence, including its prevalence, causes and consequences.**

### **Trafficking**

21. The Committee recognizes the existence of legislative and other measures to address trafficking in women and children, including for sexual exploitation purposes, such as the Programme for the Prevention and Control of Trafficking in Human Beings for 2005-2008, the establishment, in 2006, of a specialized Department of Investigation of Trafficking in Human Beings at the Police Department under the Ministry of Internal Affairs and the ratification, in 2003, of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. However, the Committee is concerned about persistent reports of cross-border trafficking in women for sexual and other exploitative purposes and it regrets the low number of prosecutions in this respect. The Committee also regrets that the State party does not have an effective system in place to monitor and assess the extent and impact of or to address this phenomenon effectively. (arts. 2, 10 and 16)

**The State party should continue to take effective measures to prosecute and punish trafficking in persons, including through the strict application of relevant legislation. The State party should continue to conduct nationwide awareness-raising campaigns, provide adequate programmes of assistance, recovery and reintegration for victims of trafficking and conduct training for law enforcement officials, migration officials and border police on the causes, consequences and incidence of trafficking and other forms of exploitation.**

### **Data collection**

22. While noting that some statistics have been provided, the Committee regrets the lack of comprehensive and disaggregated data on complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment by law enforcement officials, as well as on trafficking and domestic and sexual violence. The Committee also regrets the lack of statistics in respect of asylum-seekers and non-citizens as well as inter-prisoner violence. (arts. 12 and 13)

**The State party should establish an effective system to gather all statistical data relevant to the monitoring of the implementation of the Convention at the national level, including complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment, inter-prisoner violence, trafficking and domestic and sexual violence. The Committee recognizes the sensitive implications of gathering personal data and emphasizes that appropriate measures should be taken to ensure that such data collection is not abused.**

23. While noting the statement by the delegation that serious and on-going discussions are taking place as to the possible future ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Committee encourages the State party to ratify the Optional Protocol to the Convention.

24. The Committee invites the State party to ratify the core United Nations human rights treaties to which it is not yet a party, namely the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and the Convention on the Rights of Persons with Disabilities. The Committee also invites the State party to ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

25. The Committee recommends that the State party consider making the declarations under articles 21 and 22 of the Convention.

26. The Committee invites the State party to submit its core document in accordance with the requirements of the Common Core Document in the Harmonized Guidelines on Reporting, as approved by the international human rights treaty bodies and contained in document HRI/GEN/2/Rev.5.

27. The State party is encouraged to disseminate widely the reports submitted by Lithuania to the Committee and the concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations.

28. The Committee requests the State party to provide, within one year, information on its response to the Committee's recommendations contained in paragraphs 7, 12, 14 and 15 above.

29. The State party is invited to submit its next periodic report, which will be considered as its third periodic report, by 21 November 2012.

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