



**Human Rights Violations of Lesbian, Gay, Bisexual,  
and Transgender (LGBT) People in Lithuania:  
A Shadow Report**

**Submitted for consideration at the 105th Session of the Human  
Rights Committee**

**July 2012, Geneva**

Submitted to the United Nations Human Rights Committee by:

- Lithuanian Gay League
- The Heartland Alliance for Human Needs & Human Rights

## I. Introduction

This shadow report is the result of a collaborative effort, developed and submitted to the Human Rights Committee by the Lithuanian Gay League (LGL) and Heartland Alliance for Human Needs & Human Rights.<sup>1</sup>

The Republic of Lithuania acceded to the International Covenant on Civil and Political Rights (ICCPR) on November 20, 1991. The Human Rights Committee will consider Lithuania's November 2010 third periodic national report during its 105<sup>th</sup> session in Geneva taking place from July 9th to 27th 2012.

In its third periodic national report to the Human Rights Committee, the government of Lithuania asserts that the "Laws of the Republic of Lithuania guarantee the rights under the International Covenant on Civil and Political Rights to all individuals within Lithuania's territory and its jurisdiction without discrimination of any kind."<sup>2</sup> The government further stated that an "adequate legal framework" exists in Lithuania for giving effect to the ICCPR and that "the passage of discriminatory laws or other legal acts" is prohibited in Lithuania.<sup>3</sup>

However, in spite of this commitment to uphold the spirit of the ICCPR, the Lithuanian government has failed to adequately address and report upon human rights violations committed on the grounds of sexual orientation and gender identity by failing to even mention them in its third periodic report and by failing to adequately address them in its reply to the list of issues to be taken up in connection with consideration of Lithuania's third periodic report. This shortcoming on the part of the government seriously undermines Lithuania's commitment to the ICCPR. Sexual minorities in Lithuania continue to be systematically discriminated against, are often denied freedom of assembly and expression, and are widely subjected to hate speech within Lithuanian media.

It is our hope that the findings contained in this report will be both useful to the Human Rights Committee and can be used as a tool for protecting and promoting sexual orientation and gender identity rights under the ICCPR.

---

<sup>1</sup>This report was drafted by Jacqueline Bevilaqua (J.D.), with contributions from Vladimir Simonko, Chair of the Lithuanian Gay League and Anna Shepherd, Intern with the Lithuanian Gay League, under the supervision of Stefano Fabeni (J.D., LL.M.), Director of the Global Initiative for Sexuality and Human Rights of Heartland Alliance.

<sup>2</sup> Consideration of reports submitted by States parties under article 40 of the Covenant: Third periodic national report of States parties, Lithuania, CCPR/C/LTU/3, November 29, 2010.

<sup>3</sup> *Id.*

## II. Executive Summary

The Lithuanian Constitution holds that “The rights and freedoms of individuals shall be inborn”.<sup>4</sup> It also guarantees personal freedom<sup>5</sup> and human dignity<sup>6</sup>, prohibits the degrading treatment of persons<sup>7</sup>, and protects the private lives of individuals<sup>8</sup> as well as freedom of expression<sup>9</sup> and conscience<sup>10</sup>. Finally, the Constitution states that “All people shall be equal before the law, the court, and other State institutions and officers”<sup>11</sup>.

In addition, in December of 1998, the Seimas passed the Law on Equal Opportunities for Women and Men and in the next year appointed the Ombudsman for Equal Opportunities for Women and Men<sup>12</sup> (Ombudsman). The scope of action of the Ombudsman is inclusive of the investigation of complaints of discrimination and harassment based upon “gender, race, national background, language, origin, social status, religion, convictions or opinions, age, sexual orientation, disability, ethnic origin, religion”<sup>13</sup>. This equal opportunity legislation does not include protections from discrimination based on gender identity, and although the European Union Court of Justice held that sex must be interpreted to include gender identity<sup>14</sup>, the failure to explicitly include this status in legislation could lead to violations. Additionally, in the recent past, the Ombudsman was often inadequate in its response to allegations of discrimination based on sexual orientation.

There are pervasive examples of a culture of anti-LGBT discrimination in Lithuania, and opinion polls show that Lithuania is one of the most homophobic countries in Europe<sup>15</sup>. A draft bill has been introduced in the Seimas aimed at amending the Administrative Code to impose fines for the “promotion of homosexual relations” and at this time is still currently under consideration<sup>16</sup>. Additionally, LGBT persons have been subjected to hate speech within Lithuanian media, largely being portrayed in inflammatory, conspiratorial, and stereotypical ways and a number of politicians have made public anti-homosexual statements. Also, the Government of Lithuania effectively denies transgender individuals from undergoing complete gender reassignment in spite of a finding by the European Court of Human Rights in the case of *L. v. Lithuania* that Lithuania’s Civil Code violated article 8 of the European Convention on Human Rights in its precarious treatment of gender reassignment<sup>17</sup>. Finally, the LGBT community in Lithuania

---

<sup>4</sup> Constitution of the Republic of Lithuania, art. 18.

<sup>5</sup> *Id.*, art. 20.

<sup>6</sup> *Id.*, art. 21.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*, art. 22.

<sup>9</sup> Constitution of the Republic of Lithuania, art. 25.

<sup>10</sup> *Id.*, art. 26.

<sup>11</sup> *Id.*, art. 29.

<sup>12</sup> Consideration of reports submitted by States parties under article 40 of the Covenant: Third periodic national report of States parties, Lithuania, CCPR/C/LTU/3, ¶ 17, November 29, 2010.

<sup>13</sup> *Id.*

<sup>14</sup> *P v. S and Cornwall County Council*, C-13/94, April 30, 1996.

<sup>15</sup> Tereškinas, Artūras. “Not Private Enough? Homophobic and Injurious Speech in the Lithuanian Media” available at: [www.atviri.lt/uploads/files/dir27/dir1/16\\_0.php](http://www.atviri.lt/uploads/files/dir27/dir1/16_0.php).

<sup>16</sup> List of issues to be taken up in connection with the consideration of the third periodic report of Lithuania, CCPR/C/LTU/3, ¶ 6, December 5, 2011.

<sup>17</sup> *L. v. Lithuania*, Application no. 27527/93, September 11, 2007.

regularly must struggle for visibility and for the freedom to assemble and to express themselves in public spaces, with government officials obstructing Pride Marches and other public showings of LGBT solidarity.

In acceding to the ICCPR, along with numerous other international human rights instruments and the European Convention on Human Rights, the government of Lithuania has committed itself to protecting the rights of all Lithuanians regardless of sexual orientation or gender identity and to rectifying the wrongful discrimination that LGBT persons face there. There have been numerous instances of discrimination and rights violations aimed at the LGBT community in Lithuania in the past few years, including on the part of state authorities, some of which are documented within this report. It is our hope that this report will assist the Human Rights Committee in evaluating Lithuania's compliance with the ICCPR and will lead to progress towards equality for LGBT persons within Lithuania.

### III. Substantive Violations of the Covenant

#### Articles 2(1) and 26 (Non-discrimination)

##### Relevant Law and Jurisprudence

Articles 2(1) and 26 of the ICCPR form the non-discrimination standard to which all state parties to the ICCPR will be held. Article 2(1) states:

Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status<sup>18</sup>.

Article 26 of the ICCPR goes on to recognize that:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status<sup>19</sup>.

In the case of *Toonen v. Australia*, which held that the criminalization of consensual same-sex sexual activity was a violation of the ICCPR, the Human Rights Committee (HRC) determined that the reference to sex in articles 2(1) and 26 must be interpreted as including sexual orientation<sup>20</sup>. Thus, the rights protected by the ICCPR are guaranteed to persons of all sexual orientations, without discrimination.

The Human Rights Committee extended its holding in *Toonen* beyond criminal law to administrative law in its decision in *Young v. Australia*. In that case, the HRC determined that Australia violated the equal protection clause of Article 26 of the ICCPR in “denying the author a pension on the basis of his sex or sexual orientation”<sup>21</sup>. In making this decision, the HRC determined that a distinction based upon sexual orientation amounted to a denial of the right to equality before the law.

Additionally, in *Toonen*, the HRC rejected Tasmania’s argument that the criminalization of homosexual practices was a reasonable, proportionate measure taken to preserve morality and to

---

<sup>18</sup> International Covenant on Civil and Political Rights, G.A. Res. 2200A, 999 U.N.T.S. 171, art. 2 (Dec. 16, 1996) [hereinafter ICCPR].

<sup>19</sup> *Id.* at art. 26.

<sup>20</sup> *Toonen v. Australia*, Communication No. 488/1992, U.N. Doc. CCPR/C/50/D/488/1992 (1994).

<sup>21</sup> *Edward Young v. Australia*, Communication No. 941/2000: Australia. 18/09/2003. U.N. Doc. CCPR/C/78/D/941/2000 (2003) at 10.4.

prevent the spread of HIV/AIDS. The HRC held, to the contrary, that the sodomy law was “arbitrary” and failed to be “proportionate to the end sought”<sup>22</sup>. The HRC held similarly in *X v. Colombia* that a distinction made by Colombia between homosexual and heterosexual couples is a violation of Article 26 of the ICCPR if made without “reasonable and objective” justifications for such distinction<sup>23</sup>.

The European Union Court of Justice, whose findings Lithuania is bound to uphold, has further determined in *P v. S and Cornwall County Council*, that sex must be interpreted to include gender identity<sup>24</sup>. Thus, wherever sex is a protected status in anti-discrimination legislation, gender identity must also be protected.

Finally, Article 29 of the Constitution of the Republic of Lithuania affirms that:

All persons shall be equal before the law, the court, and other State institutions and officials. The rights of the human being may not be restricted, nor may he be granted any privileges on the ground of gender, race, nationality, language, origin, social status, belief, convictions, or views<sup>25</sup>.

#### Violations and Effects of Discrimination based on Sexual Orientation

A 2002 study by the Baltic Anti-discrimination Project on discrimination based on sexual orientation in that region serves to shed light on the extent of workplace discrimination faced by lesbian, gay, and bisexual (LGB) persons in Lithuania<sup>26</sup>. While only 15% of respondents to this study reported being open about their sexuality at work, 4% reported being refused a job at some point based on their sexual orientation, 9% suspect that this has happened to them, 2% report being refused promotions because of their sexual orientation, and 4% suspect that this has happened to them<sup>27</sup>. Additionally, 6% of respondents reported being fired or forced to resign because of their sexual orientation, and 31% reported being harassed at work because of their sexual orientation<sup>28</sup>. This study found that LGB individuals often do not feel that they can report instances of discrimination to the appropriate authorities because they fear being “outed”<sup>29</sup>, meaning that although there is relevant legislation in place to protect sexual minorities in the workplace, the widespread homophobia in Lithuania along with homophobic attitudes of politicians and state institutions prevent many people from using this legislation to assert their rights.

Further illustrating this problem is a report received by LGL that a lecturer at Vytautas Magnus University lost his job for being openly gay in the workplace. The dismissed lecturer took the

---

<sup>22</sup> *Toonen v. Australia* at 8.3.

<sup>23</sup> *X v. Colombia*, Communication No. 1361/2005: Colombia. 20/03/2007 (2007) at 7.2.

<sup>24</sup> C-13/94, April 30, 1996.

<sup>25</sup> Constitution of the Republic of Lithuania, art. 29.

<sup>26</sup> “Sexual Orientation Discrimination in Lithuania, Latvia and Estonia”, Vilnius (2002).

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

case to the Ombudsman and then to court, but lost his case at the court of second instance<sup>30</sup>. Nonetheless, LGL maintains that he was dismissed on account of his sexual orientation, and that other reasons given by the University are simply pretense. Thus, even when LGB persons are willing to attempt to assert their rights under Lithuania's Equal Opportunity Legislation, this legislation is ineffective as courts are willing to accept blatantly false reasons for dismissal rather than address the actual homophobic motives.

The abovementioned study of the Baltic Anti-discrimination Project also found that LGB persons suffer severe discrimination in healthcare<sup>31</sup>. One respondent to the survey said that her gynecologist refused to treat her after finding out that she was a lesbian based on the doctor's supposed "incompetence in lesbian issues"<sup>32</sup>. In another case, a respondent reports that he was teased for his sexual orientation when he saw an urologist<sup>33</sup>. 64% of total respondents to this study reported concealing their sexual orientation from healthcare professionals due to fear of discrimination<sup>34</sup>, which most likely prevents them from receiving the best possible available healthcare. There is currently no legislation in Lithuania to protect LGB persons from discrimination in provision of these health services, thus leaving them without any option for redress.

Mass media in Lithuania has also contributed to discrimination against sexual minorities there. In general, Lithuanian mass media presents homosexuality as something that is unnatural and indeed unacceptable to most people, implying that mistreatment and hatred of homosexuals is natural based upon a perceived threat to religious and cultural norms<sup>35</sup>. A number of mass media mediums in Lithuania publish and disseminate hate speech, spread misleading information about homosexuality, and incite discrimination against lesbian, gay, bisexual and transgender (LGBT) persons. In spite of legislation prohibiting hate speech based on sexual orientation, Lithuania has failed to adequately address this issue.

For example, in the tabloid *Vakaro Žinios*, journalists often refer to gays using the words "pervert" and "capon" (capon is a derogatory term for gay men in Lithuania)<sup>36</sup>. Another Lithuanian tabloid, *L.T.*, described a Lithuanian website geared towards gay readers as "a mockery of people of normal orientation"<sup>37</sup>. The prominent writer V. Landsbergis wrote that "in the whole world, the anti-family, i.e. gay parades etc., become more popular. It seems that soon marriage between humans and animals will be legalized..."<sup>38</sup> thus conflating homosexuality with zoophilia.

Arūnas Peškaitis, a commentator for a conservative news portal wrote: "Perhaps the biggest crime – and I say it boldly – occurred when homosexuality was excluded from the list of

---

<sup>30</sup> *AZ v. Vilnius College*, Vilnius District Court (2011), available at:

<http://liteko.teismai.lt/viesasprendimupaijeska/tekstas.aspx?id=90baea97-40e3-44bd-8199-d923c7d7923c>.

<sup>31</sup> "Sexual Orientation Discrimination in Lithuania, Latvia and Estonia", Vilnius (2002).

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> Tereškinas, Artūras. "Not Private Enough? Homophobic and Injurious Speech in the Lithuanian Media."

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

disorders”<sup>39</sup>, suggesting that homosexuality is a perversion or disorder. In 2007, the investigative journalism program “Srovès” referred to Gay Pride events taking place in Vilnius as “funny spectacles” and called homosexuality a perversion, like necrophilia and pedophilia<sup>40</sup>. In fact, there is a trend for the Lithuanian media to portray homosexuals as pedophiles or pederasts, as evidenced by a feature article from *Leituvos Rytas* called “From Alleged Love to the Ruins of a Family” in which the stereotypes of the gay pedophile and the perverted gay person are repeated<sup>41</sup>.

Another pervasive trend in the media exists suggesting the existence of a global gay conspiracy<sup>42</sup>. For example, an online paper distributed by a political group called the Union for Morality and Nation, suggested that “Homosexuals are starting a full-scale attack”<sup>43</sup>. In another paper, the same group referred to tolerance of homosexuality as “an imported ideology of evil”<sup>44</sup>. On May 7, 2007, *Respublika* warned readers that gay influence was increasing in Lithuania and that more gays were occupying prestigious professions and were expelling normal, heterosexual people from these professions<sup>45</sup>. Lithuanian media also commonly claims that homosexuals want to destroy the “normal” family and the nation<sup>46</sup>.

One especially egregious instance of the state failing to prevent hate speech against LGBT people occurred in 2011, when the Vilnius district prosecutor’s office decided to end a pre-trial investigation into an internet comment posted in September 2009 under an article about a Norwegian lesbian couple who had adopted a Lithuanian boy<sup>47</sup>. The comment said, “Lesbians and fags must be shot at the wall like the Jews by the Germans. This caste must be destroyed, crushed without mercy”<sup>48</sup>. The prosecutor, Darius Brubulis, said that he could not find any basis to conclude that the suspect had committed a criminal offense with direct intent<sup>49</sup>. Yet, in a previous case in which the comment “Lithuanians who shoot the Jews are the real heroes, they deserve a monument in Paneriai” was posted under an online article about the restitution of Jewish property in Lithuania, this comment was held to be a violation of Article 170 of the Criminal Code<sup>50</sup>. LGL fears that this differential treatment between very similar instances of hate speech on the part of the prosecutor will suggest that incitement of violence against LGBT people is acceptable.

Not only do the state and Lithuanian politicians fail to condemn and combat hate speech aimed at LGBT people, they also partake in such speech. The MP Irena Degutienė once said “we have never acknowledged and [will] never acknowledge partnerships; we [will] never acknowledge

---

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> “Chair of LGL Concerned About Hate Provoking Internet Comments”, May 22, 2012, available at:

[http://www.atviri.lt/index.php/news/chair\\_of\\_lgl\\_concerned\\_about\\_hate\\_provoking\\_internet\\_comments/5781](http://www.atviri.lt/index.php/news/chair_of_lgl_concerned_about_hate_provoking_internet_comments/5781).

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

gay marriage because it is not a real family”<sup>51</sup>. She also said “I am not against gays but I wish they would not demonstrate their views”<sup>52</sup>, suggesting that LGBT people should stay out of the public sphere and should hide who they are. V. Aleknaitė-Abramikienė, an MP belonging to the Homeland Union Party, said in reference to Gay Pride events being planned in Vilnius, “A gay and lesbian parade in Lithuania would humiliate the Lithuanian nation” and she also said that the ILGA-Europe conference held in Vilnius in 2007 would “degrade the Lithuanian nation and the opinions of the majority of the Lithuanian people”<sup>53</sup>. Such intolerant and hateful language on the part of prominent politicians suggests impunity for human rights violations committed against sexual minorities.

Illustrating this fact is an incident which took place in 2007, when on the evening of the first day of the Annual ILGA-Europe Conference taking place in Vilnius, a smoke bomb was thrown into Club Soho, where many of the conference participants were socializing<sup>54</sup>. LGL reports that Lithuanian police responded to the bar after the attack, but that the next day a police officer publicly declared that LGBT activists may have orchestrated the bombing themselves in order to get publicity. This is despite the fact that the perpetrators of the attack gave an interview to a Lithuanian newspaper, admitting that it was motivated by anti-gay sentiment. There is no evidence that the police ever followed up on this newspaper report, and they never found the people responsible for the bombing and closed the case.

#### Violations and Effects of Discrimination based on Gender Identity

There are many laws in Lithuania aimed at curbing discrimination and abuse based on a variety of factors. These factors consistently fail to include protections based on an individual’s gender identity. Such laws include the Law on Equal Opportunities for Women and Men, which established the Office of the Ombudsman for Equal Opportunities for Women and Men. The Ombudsman does not investigate complaints of harassment or discrimination based on gender identity.

### **Article 7 (Freedom from Torture and Cruel, Inhuman or Degrading Treatment or Punishment)**

#### Relevant Law and Jurisprudence

According to a 2001 Report examining the issue of torture of LGBT persons conducted by the UN Special Rapporteur on the Question of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, LGBT people around the world are disproportionately subjected to harassment, humiliation and other violations affecting their human dignity<sup>55</sup>. The report goes on to assert that this constitutes a violation of Article 7 of the ICCPR<sup>56</sup>.

---

<sup>51</sup> Tereškinas, Artūras. “Not Private Enough? Homophobic and Injurious Speech in the Lithuanian Media.”

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> “The ILGA-Europe Conference Summary” available at: <http://www.lgl.lt/naujienose.php?pid=12>.

<sup>55</sup> Report of the UN Special Rapporteur on the Question of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Nigel Rodley, p. 6-7 (UN Doc. A/56/156, July 3, 2001).

<sup>56</sup> *Id.*

The Human Rights Committee further elucidated state obligations under Article 7 in General Comment No. 20, in which it established that the purpose of the prohibition against torture and cruel, inhuman or degrading treatment or punishment is to protect “both the dignity and the physical and mental integrity of the individual”<sup>57</sup>.

Finally, Lithuania’s Constitution holds that “The dignity of the human being shall be protected by law” and that “It shall be prohibited to torture, injure a human being, degrade his dignity, subject him to cruel treatment”<sup>58</sup>.

### Violations and Effects of Discrimination Based on Sexual Orientation and Gender Identity

The aforementioned study of the Baltic Anti-Discrimination Project reports that in Lithuania, the police have never given the public a clear indication that homophobic violence and abuse will not be tolerated<sup>59</sup>. In this study, 27% of respondents reported that they had been the victim of at least one violent attack because of their sexual orientation<sup>60</sup>. Only 1/3 of these persons reported the incident to the police, and of the reported cases, police responded supportively in only 15% and responded with outright hostility in 39% of cases<sup>61</sup>.

One gay man responded to this survey with a report that he was in a gay bar in Vilnius when it was raided by two men carrying a gun<sup>62</sup>. The two men tied down the bar patron and burned his forehead with a cigarette<sup>63</sup>. They then robbed the patron and two bartenders, while shouting anti-gay slurs and threatening to set the bar on fire<sup>64</sup>.

In another reported incident, a lesbian says that she was forced into a car by an acquaintance and then subjected to physical and mental violence by this man for two days<sup>65</sup>. A gay man working as a bartender at a gay bar in Klaipeda additionally reported being attacked by a customer at the bar, who tied him up, cut his wrists, and then robbed him<sup>66</sup>. This man reported the incident to police; however, the perpetrator was not punished, as he asserted that the man had sexually harassed him<sup>67</sup>. Another gay man even reported that he was beaten by a police officer who saw him kissing his boyfriend in a public place<sup>68</sup>.

Harassment of LGBT persons also runs rampant and unchecked in Lithuania, as people are afraid of disclosing their sexual orientation to police in reporting such incidents. 52% of respondents to

---

<sup>57</sup> OHCHR, “General Comment No. 20: Replaces General Comment No. 7 Concerning Prohibition of Torture and Cruel Treatment or Punishment (Art. 7): 10/03/92.” Available at: [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/6924291970754969c12563ed004c8ae5?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/6924291970754969c12563ed004c8ae5?Opendocument).

<sup>58</sup> Constitution of the Republic of Lithuania, Art. 21.

<sup>59</sup> “Sexual Orientation Discrimination in Lithuania, Latvia and Estonia”, Vilnius (2002).

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

the Baltic Anti-Discrimination Project survey reported being harassed because of their sexual orientation<sup>69</sup>. It can be extrapolated that police would not deal with these cases effectively from the above statistics stating that when LGBT persons reported violence to the police, police were supportive in only 15% of cases and openly hostile in 39%<sup>70</sup>.

In one incident of harassment, a gay man says that a group of teenagers in his neighborhood regularly threaten to beat him and to damage his car; they also verbally bully him on the street<sup>71</sup>. A lesbian reported that her neighbor used death threats to harass her and her partner for a year, culminating with him slashing the tires of their car<sup>72</sup>. A policeman witnessed this slashing while passing by the scene and arrested the man<sup>73</sup>. However, the man was sentenced only for damaging the car, not for his ongoing harassment of the couple based on their sexual orientation<sup>74</sup>.

One gay man reported that he was bullied by a fellow student at the university they both attended; this fellow student regularly shouted homophobic slurs at the respondent<sup>75</sup>. Finally, one gay man reported that when he was 16 years old, he was forced to pay neighborhood bullies 20 litas to stop them from beating him<sup>76</sup>.

## **Article 14 (Right to a Fair Trial)**

### Relevant Law and Jurisprudence

Article 14 of the ICCPR states that “All persons shall be equal before the courts and tribunals”<sup>77</sup> and the Constitution of Lithuania declares that “All persons shall be equal before the law, the court, and other State institutions and officials”<sup>78</sup>.

### Violations and Effects of Discrimination Based on Sexual Orientation and Gender Identity

Lithuania’s Criminal Code treats discriminatory motives, such as sexual orientation, as aggravating circumstances in cases in which any criminal activity is committed. However, there are at least two cases in which Lithuanian prosecutors decided not to bring charges under Article 170, the hate crimes provision of the Criminal Code, because these cases involved LGBT people.

The first, mentioned in the non-discrimination section, was a case in which prosecutors declined to bring charges for an inflammatory internet comment calling for the death of LGBT people,

---

<sup>69</sup> “Sexual Orientation Discrimination in Lithuania, Latvia and Estonia”, Vilnius (2002).

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> ICCPR, art. 14.

<sup>78</sup> Constitution of the Republic of Lithuania, art. 29.

even when they had prosecuted an extremely similar comment made regarding Jewish people<sup>79</sup>. The second instance, mentioned in the section on cruel, inhuman or degrading treatment or punishment, occurred when a lesbian's neighbor, who had been harassing and threatening her and her partner for a year, was caught slashing her tires and was charged only for destroying her property, and not for his homophobic motives<sup>80</sup>.

## **Articles 16 (Recognition as a Person Before the Law) and 17 (Freedom from Arbitrary Interference with Privacy, Family, Home)**

### Relevant Law and Jurisprudence

Article 16 of the ICCPR states “Everyone shall have the right to recognition everywhere as a person before the law”<sup>81</sup>. Article 17 holds that “No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation”<sup>82</sup> and that “Everyone has the right to the protection of the law against such interference or attacks”<sup>83</sup>.

In addition to these protections in the ICCPR, the European Court of Human Rights, to which Lithuania is a state party, has elucidated the right to privacy, protected by article 8 of the European Convention, in case law. In *Goodwin v. United Kingdom*, the European Court held that it was a violation of article 8 of the European Convention for a state to fail to give legal recognition to the gender of a post-operative transsexual<sup>84</sup>.

In the case of *L. v. Lithuania*, the European Court held that article 8 of the European Convention obligates states “to implement the recognition of the gender change in post-operative transsexuals through... amendments to their civil status data, with its ensuing consequences”<sup>85</sup>. This case found that a “legislative gap” in Lithuania in terms of gender-reassignment surgery, left transsexuals “in a situation of distressing uncertainty vis-à-vis [their] private li[ves]” and ordered Lithuania to pay reparations and to appropriately amend its laws so as to avoid further violating article 8<sup>86</sup>. This jurisprudence on the European Convention can be applied to analogous articles of the ICCPR.

### Violations and Effects of Discrimination Based on Gender Identity

Article 2.27 § 1 of the Civil Code of Lithuania provides that an unmarried adult is entitled to opt for gender-reassignment surgery<sup>87</sup>. This provision further stipulates that the conditions and

---

<sup>79</sup> “Chair of LGL Concerned About Hate Provoking Internet Comments”, May 22, 2012, available at:

[http://www.atviri.lt/index.php/news/chair\\_of\\_lgl\\_concerned\\_about\\_hate\\_provoking\\_internet\\_comments/5781](http://www.atviri.lt/index.php/news/chair_of_lgl_concerned_about_hate_provoking_internet_comments/5781).

<sup>80</sup> “Sexual Orientation Discrimination in Lithuania, Latvia and Estonia”, Vilnius (2002).

<sup>81</sup> ICCPR, art. 16.

<sup>82</sup> ICCPR, art. 17.

<sup>83</sup> *Id.*

<sup>84</sup> *Goodwin v. United Kingdom*, Application no. 28957/95, 11 July 2002.

<sup>85</sup> *L. v. Lithuania*, Application no. 27527/03, 11 September 2007.

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

procedure for gender-reassignment surgery will be established by law<sup>88</sup>. However, Lithuania has yet to pass legislation to implement this provision, despite being ordered to do so by the European Court in 2007<sup>89</sup>. Currently, the Seimas is attempting to ban gender reassignment surgery in Lithuania's Civil Code in order to prevent similar claims from being brought against Lithuania at the European Court<sup>90</sup>.

Furthermore, while Lithuanian law currently allows for persons to change their names, it does not allow individuals who have not fully transitioned surgically to change their personal code, which indicates either male or female sex<sup>91</sup>. Because people cannot fully transition in Lithuania due to the lack of a Gender-Reassignment Law<sup>92</sup>, even if a person changes their name and partially transitions, they will still be in an unacceptable intermediate stage because they cannot change their personal code.

Finally, while there are surgeons in both Vilnius and Kaunas properly equipped and trained to carry out gender-reassignment surgery, the absence of appropriate legal regulation makes this surgery impossible to complete<sup>93</sup>. Thus, Lithuanian transsexuals, many of whom have already applied to have the surgery, are forced to either forego treatment or to go abroad to receive adequate care<sup>94</sup>.

## **Article 19 (Freedom of Expression)**

### Relevant Law and Jurisprudence

Article 19 of the ICCPR states that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice"<sup>95</sup>.

### Violations and Effects of Discrimination Based on Sexual Orientation and Gender Identity

MP Petras Grazulis of the Order and Justice Party has submitted to Lithuanian Parliament, the Seimas, proposed amendments to the Lithuanian Code of Administrative Offenses which would introduce the offense of "promotion of homosexual relations"<sup>96</sup>. If added to the Administrative Code, commission of this offense would be punished with fines of €580 - €2,900<sup>97</sup>. This amendment has been debated and is thus far still pending Seimas approval. If accepted into law,

---

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> Wockner, Rex. "Lithuanian MPs Want to Ban Gender-Reassignment Surgery" March 14, 2011, available at: <http://www.asylumlaw.org/docs/sexualminorities/LithuaniaRex031411.pdf>.

<sup>91</sup> *L. v. Lithuania*, Application no. 27527/03, 11 September 2007.

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*, at ¶ 22.

<sup>94</sup> *Id.*

<sup>95</sup> ICCPR, art. 19.

<sup>96</sup> "European Parliament Calls on Lithuania to Reject the Proposed Homophobic Law" January 20, 2011, available at: <http://www.lgl.lt/naujienose.php?pid=62>.

<sup>97</sup> *Id.*

the new legislation could potentially criminalize virtually all public expression or portrayals of homosexuality.

The Law on the Protection of Minors against the Detrimental Effect of Public Information has been in effect since March 1 of 2010<sup>98</sup>. This law classifies any information which “denigrates family values” or which “encourages a concept of marriage and family other than stipulated in the Constitution... and the Civil Code of the Republic of Lithuania” as detrimental to children and as a consequence, bans such information from places accessible to children<sup>99</sup>. In Lithuanian law, marriage is defined as between a man and a woman<sup>100</sup>. Thus, publicly promoting same-sex partnerships or advocating for marriage equality would be prohibited under this law.

According to LGL, this law has not been enforced against any LGBT activists as yet, but they believe it is only a matter of time before this law is used to silence and intimidate the LGBT community. MPs have already invoked the law in trying to ban the 2010 Baltic Pride March, although unsuccessfully<sup>101</sup>. This exposes the homophobic intentions behind the adoption of this law and the motive to use it to curb public discussions on homosexuality or the public expression of LGBT orientation<sup>102</sup>.

In another instance, gay activists were banned from displaying the rainbow flag, an international symbol of gay rights, twice in 2007<sup>103</sup>. LGL claims that the same reason for banning pride events was given for banning the display of the flag: construction. However, LGL asserts that there was no construction actually taking place to prevent them from flying the flag. Although LGL took the decision to ban the rainbow flag to Court, the Court ruled against LGL and accepted the false argument that ongoing construction was the reason for disallowing the flag<sup>104</sup>.

Again in 2007, the Mayor of Vilnius, Juozas Imbrasas, refused to allow an anti-discrimination truck tour to visit the city<sup>105</sup>. The truck was part of the European Year of Equal Opportunities for All campaign, and it was travelling to many major European cities, but Mayor Imbrasas claimed that it would cause a security risk and riots if it entered Vilnius<sup>106</sup>. According to LGL, the group could not bring a claim of discrimination to the Ombudsman because permission to bring the truck to Vilnius was being requested by a private public relations company and thus LGL did not have standing. LGL asked the company to make a complaint, but it failed to do so.

Later, in 2008, the municipality of Vilnius again refused to grant permission for the truck to enter the city. This time, a complaint was registered with the Ombudsman’s office, which told the

---

<sup>98</sup> Amnesty International Press Release: Homophobic law to enter into force in Lithuania, February 26, 2010, AI Index: PRE01/070/2010, available at: <http://www.asylumlaw.org/docs/sexualminorities/LithuaniaAI022610.pdf>.

<sup>99</sup> *Id.*

<sup>100</sup> Civil Code of Lithuania, Article 3.12; Article 3.229.

<sup>101</sup> Amnesty International Public Statement, 18 March 2010, AI Index: EUR 53/002/2010 “Lithuania: Amnesty International condemns MPs’ call to use recently adopted homophobic legislation to ban the Baltic Pride” available at: <http://www.asylumlaw.org/docs/sexualminorities/LithuaniaAI031810.pdf>.

<sup>102</sup> *Id.*

<sup>103</sup> “Lithuania’s EU Commissioner Denies She is a Lesbian”, available at: <http://www.lgl.lt/naujienose.php?pid=34>.

<sup>104</sup> “The ILGA-Europe Conference Summary” available at <http://www.lgl.lt/naujienose.php?pid=12>.

<sup>105</sup> “Lithuania’s EU Commissioner Denies She is a Lesbian”, available at: <http://www.lgl.lt/naujienose.php?pid=34>.

<sup>106</sup> *Id.*

organizers of the truck tour to take the truck to a private place which was located near a supermarket with no public access, effectively stifling what was to be a public event. Members of city government gave speeches regarding this act, saying that the Equal Opportunity Truck would be an LGBT event and that they did not want such event taking place on municipality land.

Additionally, in 2009 a teaching methodology called “Gender Loops” was introduced in order to represent diverse orientations and gender identities in schools. This methodology included a book made for kindergarteners that contained a fairytale about two princes; this caused a huge scandal. In fact, the Minister of Social Affairs and Employment, Rimantas Jonas Dagys, ordered that the “Gender Loops” project be stopped, saying that it was contradictory to Lithuania’s Constitution because it promoted asexuality and non-traditional sexual orientation to minors<sup>107</sup>. In the end, because of the scandal, this methodology was never disseminated in schools<sup>108</sup>.

In another case, LGL and other organizations launched the EQUAL project called “Open and Safe at Work”<sup>109</sup>. As a part of this project, social advertisements advocating equality and tolerance were developed to be placed on buses<sup>110</sup>. These advertisements included slogans such as: “A lesbian can work in a school” and “Homosexual employees can be open and safe”<sup>111</sup>. Unfortunately, even this very small attempt at public visibility was denied and the advertisements were not shown<sup>112</sup>.

Lastly, in February of 2006, the curator of the Juodkrantė Art Center, Kristina Danilevičienė, refused to allow photographs showcasing non-traditional forms of partnership and family, among them gay and lesbian ones<sup>113</sup>. LGL took this case to the Ombudsman, who issued a warning to the curator for violating the law of Equal Treatment; however, the photographs were nonetheless never exhibited<sup>114</sup>.

## **Article 21 (Freedom of Assembly)**

### Relevant Law and Jurisprudence

Article 21 of the ICCPR upholds the right of peaceful assembly<sup>115</sup>. The Lithuanian Constitution similarly asserts that “Citizens may not be prohibited or hindered from assembling unarmed in peaceful meetings”<sup>116</sup>.

The holding by the European Court of Human Rights in the case of *Bączkowski and Others v. Poland*<sup>117</sup> helps to elucidate the extent of the ICCPR protection of freedom of assembly. In this

---

<sup>107</sup> “Tightening the Gender Loop in Lithuania”, available at: <http://www.lgl.lt/naujienose.php?pid=31>.

<sup>108</sup> *Id.*

<sup>109</sup> Tereškinas, Artūras. “Not Private Enough? Homophobic and Injurious Speech in the Lithuanian Media.”

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

<sup>112</sup> *Id.*

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

<sup>115</sup> ICCPR, art. 21.

<sup>116</sup> Constitution of the Republic of Lithuania, art. 36.

case, the Court determined that the banning of an LGBT parade in Warsaw, Poland violated, among others, Article 11 of the European Convention on Human Rights ensuring freedom of assembly. This case is indicative of how Article 21 of the ICCPR should be interpreted.

### Violations and Effects of Discrimination Based on Sexual Orientation and Gender Identity

According to LGL, the government of Lithuania has obstructed Pride Marches in the capital city of Vilnius on a number of occasions. In 2007, the Vilnius city government denied permission for LGL to have a Pride March. LGL challenged this decision with the Ombudsman, but lost their case and their subsequent appeal to the highest court. LGL lost this case because the Ombudsman and court both accepted the government's facetious argument that the march could not take place due to ongoing construction. However, LGL asserts that there was no construction occurring in the square in which the group wanted to assemble.

Later, in 2010, LGL again set out to plan a Pride Parade in Vilnius. As part of this endeavor, the group suggested eight possible routes for a parade. All eight of these routes were rejected by the Vilnius city government. The government then offered LGL a shorter route, which was not along any highly visible streets. LGL was willing to accept this route, but scandal later erupted when it was discovered that this route passed by a Jewish cemetery, and the Jewish community of Lithuania did not want a gay pride parade to take place there. After receiving pressure from the Jewish community, the government decided to change the parade route to another short and less visible route. Meanwhile, the main street in Vilnius has been used for other parades, including a parade by a Nationalist group with Neo-Nazi ties on Lithuanian Independence Day. Politicians have publicly declared that this main street will never be used for an LGBT Pride Parade, thus admitting to the true, homophobic motives behind refusing permission for pride marches or parades.

## **Article 23 (Right to Family)**

### Relevant Law and Jurisprudence

Article 23 of the ICCPR holds that “The family is the natural and fundamental group unit of society and is entitled to protection by society and the State”<sup>117</sup>. This article requires states parties to the ICCPR to “take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution” and asserts that regarding dissolution of marriage, “provision shall be made for the necessary protection of any children”<sup>119</sup>.

Additionally, Article 38 of the Lithuanian Constitution holds that the family is the “basis of society and the State” and that family, motherhood, fatherhood and childhood are all under the

---

<sup>117</sup> Application No. 1543/06, 3 May 2007.

<sup>118</sup> ICCPR, art. 23(1).

<sup>119</sup> *Id.* at 23(4).

state's protection and care<sup>120</sup>. Article 38 goes on to assert that it is "the right and duty of parents...to bring up their children..."<sup>121</sup>.

#### Violations and Effects of Discrimination based on Sexual Orientation

It was reported to LGL that in 2000 a woman who had ended her marriage to her husband and was subsequently living together in a relationship with an openly gay woman lost custody of her child to her ex-husband. The ex-husband asserted during the case that his ex-wife's sexual orientation was one reason why he should get custody of their child. Although the court did not state that the mother's sexual orientation was a motivating factor behind their decision to grant custody to the father, LGL believes that this woman lost custody of her child on account of her sexual orientation. Thus, the court did not consider the best interests of the child in this case as it should have, but relied upon the mother's sexual orientation in making its decision.

---

<sup>120</sup> Constitution of the Republic of Lithuania, art. 38.

<sup>121</sup> *Id.*

## **Concluding Notes and Observations**

As a State Party to the ICCPR, Lithuania is bound to uphold the rights contained in that document for all of its citizens, regardless of sexual orientation or gender identity. Yet, as illustrated in this report, Lithuania is currently failing to comply with its obligations under the ICCPR with respect to sexual minorities. In Lithuania, there exists a climate of state-sponsored and social discrimination against the LGBT community, and this climate serves to exclude LGBT people from enjoying human rights equally with heterosexual and gender conforming people. This denial of human rights has manifested itself in cruel, inhuman and degrading treatment, the failure to ensure fair trials for all, interference with individuals' privacy, and severe restrictions on the right to freedom of assembly and expression.

## **Recommendations**

1. The government of Lithuania should enforce a policy of non-discrimination for all people and government officials should refrain from engaging in hate speech aimed at the LGBT community.
2. The Seimas should not adopt amendments to the Administrative Code that would make the “promotion of homosexual relations” an offense.
3. Protections based on gender identity should be included in all relevant legislation.
4. Police should be trained so that they may effectively and sensitively serve the LGBT community.
5. The government should use relevant hate crime legislation in bringing charges against persons who have committed crimes motivated by homophobia and transphobia.
6. Legislation should be introduced to allow transsexuals to fully complete the process of gender-reassignment, including surgery, name change, and personal code change.
7. The LGBT community should be allowed to have public events, rallies, marches, and parades on parity with their heterosexual and gender conforming counterparts.

## Proposed Questions for the Government

1. What steps are being taken to combat social exclusion and discrimination on grounds of sexual orientation and gender identity; what steps are being taken to combat widespread homophobia by state officials?
2. What new actions has the Seimas taken on the draft bill amending the Administrative Code to impose fines for the “promotion of homosexual relations”? If so amended, how could such a bill be compatible with the ICCPR?
3. Are any measures being taken to include protections based on gender identity in the Law on Equal Opportunities, the Criminal Code, or the Law on the Provision of Information to the Public?
4. Has the State launched any initiatives to sensitize police to deal effectively with complaints lodged by LGBT people?
5. What actions is the Seimas taking to implement the European Court’s order in *L. v. Lithuania* to adopt appropriate legislation to allow for full gender-reassignment surgery?
6. How will the state avoid the amended Law on the Protection of Minors being used to persecute and silence the LGBT community?
7. What steps is the government taking to ensure that the LGBT community will be able to assemble and express their views in public?