

**Unedited Version**

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 40 OF THE COVENANT

Concluding Observations of the Human Rights Committee

Lithuania

1. The Committee considered the second periodic report of Lithuania (CCPR/C/LTU/2003/2) at its 2,181st and 2182nd meetings, on 24 and 25 March 2004, and subsequently adopted at the 2192nd meeting, held on 1 April 2004, the following concluding observations:

A. Introduction

2. The Committee welcomes the second report of Lithuania and expresses its appreciation for a frank and constructive discussion with the delegation. It welcomes the concise nature of the report and pertinent information provided on the practical implementation of legislation.

C. Positive aspects

3. The Committee appreciates the ongoing efforts of the State Party to reform its legal system and revise its legislation in order to conform to the rights protected in the Covenant. In particular, it welcomes the establishment of the Parliamentary Committee on Human Rights and the adoption of three Ombudsmen institutions: the Parliamentary Ombudsmen; the Ombudsman for Equal Opportunities; and the Ombudsman for the Rights of the Child. As to the latter two Ombudsmen, the Committee encourages the State Party to extend their powers to enable them to bring court actions in the same way as the Parliamentary Ombudsmen.

4. The Committee welcomes the amendment to the Law on Compensation for the Damage Caused by Unlawful Acts of State Authorities, which is currently pending before Parliament. It encourages the State Party to adopt this legislative amendment, which further will improve the implementation of the Committee's Views on communications under the Optional Protocol, including the provision of compensation.

5. The Committee welcomes Lithuania's accession to the Second Optional Protocol to the Covenant, which was ratified on 2 August 2001.

#### D. Subjects of concern and Committee's recommendations

6. The Committee notes that some 30% of the recommendations and proposals issued by the Parliamentary Ombudsman have apparently not been implemented (article 2).

The State Party should take appropriate measures to increase the level of implementation of these decisions.

7. The Committee is concerned about the formulation of the draft law on the Legal Status of Foreigners, which, according to the State Party's third report to the Counter-Terrorism Committee of the Security Council, may allow for the removal of foreigners who are regarded as a threat to state security, despite the fact that they may be exposed to a violation of their rights under article 7 in the country of return. The Committee is also concerned that in cases of alleged threat to the State, the implementation of the decision to remove a foreigner may not be suspended prior to consideration of an appeal, which may have the effect of denying that individual a remedy under article 2.

The State Party is requested to ensure that counter-terrorism measures, whether taken in connection with Security Council resolution 1373 (2001) or otherwise, are in full conformity with the Covenant. In particular, it should ensure absolute protection for all individuals, without exception, against refoulement to countries where they risk violation of their rights under article 7.

8. While welcoming the adoption of the Programme for the Roma Integration into Lithuanian Society and the oral information provided by the delegation on the achievements of the first phase of the Programme, the Committee continues to be concerned about the social and economic situation of the Roma minority and its impact on the full enjoyment of their rights under the Covenant. It notes that the Roma continue to suffer from discrimination, poverty, and unemployment, and play no part in the public life of the State Party (articles 26 and 27).

The State Party should provide the Committee with an assessment of the results of the first phase of the Programme, including detailed information on its outcome and achievements and the extent to which it has improved the social and economic conditions of the Roma minority. The Committee also encourages the State Party to take this assessment into account in designing and implementing the second phase of the programme.

9. The Committee is concerned that incidents of domestic violence against women and children are rising. While noting the efforts made by the State Party to combat domestic violence, including the National Equal Opportunities Programme and the Action Plan on Violence against Children, the Committee notes that there is no special legislation relating to domestic violence within the legal system (articles 3 and 7).

The State Party should take all necessary measures, including the enactment of appropriate legislation, to deal with domestic violence. New legislation should include

the introduction of restraining orders as a means of protecting women and children from violent family members. The State Party should continue its efforts to provide shelters and other support for victims of domestic violence and take measures to encourage women to report domestic violence to the authorities, and to make police officers more sensitive in their handling of allegations of domestic violence, including rape and its psychological impact on the victim.

10. The Committee is concerned that there is no independent oversight mechanism for the investigation of complaints of criminal conduct against members of the police. This may contribute to impunity for police officers involved in human rights violations (articles 2, 7, 9).

The State Party should establish an independent body with authority to receive, investigate and adjudicate all complaints of excessive use of force and other abuse of power by the police.

11. The Committee is concerned that under article 12 of the Law on Pre-Trial Detention and the Code on Enforcement of Punishment adults may be detained together with minors in “exceptional cases”. While noting the State Party’s explanation that separation of minors and adults is the norm, the Committee observes that the law does not contain criteria to determine which cases are exceptional.

The State Party should ensure that juveniles accused of criminal offences and deprived of their liberty are separated from adults, in accordance with article 10, paragraph 2 (b), of the Covenant.

12. While noting the information provided orally by the delegation on sex education in schools, the Committee is concerned at the high rate of unwanted pregnancies and abortions among young women between the ages of 15 and 19, and the high number of these women contracting HIV/AIDS, with consequent risks to their life and health (article 6).

The State Party should take further measures to help young women avoid unwanted pregnancies and HIV/AIDS, including strengthening its family planning and sex education programmes.

13. The Committee is concerned that persons may still be detained in respect of administrative offences, and it regrets the paucity of information it has received on various forms of administrative detention, such as involuntary psychiatric care, immigration detention and detention as administrative punishment. It is also concerned that persons may be detained in police custody beyond the 48-hour limit for them to be brought before a judge on criminal charges or subjected to the proceedings applicable to administrative offences, and that they may be returned to police detention for further investigation (articles 7 and 9).

The State party should remove the institution of detention for administrative offences from its system of law enforcement, and reexamine its legislation to ensure that the Covenant is complied with, including article 9, paragraph 4, which requires effective judicial review of all forms of detention. It should also ensure that persons ordered detained beyond the 48-hour period are not held in police detention, and that, once remanded in prison detention, they cannot be returned to police custody.

14. The Committee is concerned at the situation regarding trafficking in persons, in particular the low number of criminal proceedings instituted for documented cases of trafficking (articles 3 and 8).

The State Party should reinforce measures to combat trafficking of women and children and impose sanctions on those who exploit women for such purposes. The Committee encourages the State Party to continue to protect women who are victims of trafficking to enable them to seek refuge and testify against the persons responsible in criminal or civil proceedings. The State Party should also cooperate with other states in eliminating trafficking across national borders. The Committee wishes to be informed of the measures taken and their result.

15. The Committee is concerned at information that asylum seekers from certain countries are prevented from requesting asylum at the border. In addition, it is concerned that although asylum seekers are only detained in “exceptional circumstances”, the criteria for establishing such circumstances remain unclear. Moreover, the Committee is concerned about the very low number of persons who have been granted asylum in recent years, when compared with the number of applications over the same period (articles 12 and 13).

The State Party should take measures to secure access for all asylum seekers, irrespective of their country of origin, to the domestic asylum procedure, particularly when applications for asylum are made at the border. The State Party should also provide information on the criteria on which asylum seekers may be detained, as well as the situation with regard to minors seeking asylum. It should ensure that they are only detained, and their detention regularly reviewed by a court or judicial officer, when justified in the particular circumstances of the case

16. The Committee reiterates the concern expressed in its concluding observations on the State Party’s previous report, that distinctions remain in the registration process between different religions, and that this amounts to unequal treatment contrary to articles 18 and 26. It notes that religious communities which do not meet the registration criteria are disadvantaged in that they may not register as legal persons and therefore, as acknowledged by the delegation, may face certain difficulties, inter alia, with respect to the restitution of property.

The State Party should ensure that there is no discrimination in law or in practice in the treatment of different religions.

17. The Committee reiterates the concern expressed in its concluding observations on the previous report, about conditions of alternative service available to conscientious objectors to military service, in particular with respect to the eligibility criteria applied by the Special Commission and the duration of such service as compared with military service.

The Committee recommends that the State Party clarify the grounds and eligibility for performing alternative service on grounds of conscience or religious belief, to ensure that the right to freedom of conscience and religion is respected by permitting alternative service in practice outside the defence forces, and that the duration of service is not punitive in nature (articles 18 and 26 of the Covenant).

18. The Committee is concerned that the new Labour Code is too restrictive in providing, inter alia, for the prohibition of strikes in services which cannot be considered as essential, and the requirement of a two thirds majority to call a strike, which may amount to a violation of article 22.

The State Party should make the necessary amendments to the Labour Code to ensure the protection of the rights guaranteed under article 22 of the Covenant.

19. The State Party should disseminate widely the text of its second periodic report, the replies provided to the Committee's list of issues, and the present concluding observations.

20. In accordance with article 70, paragraph 5 of the Committee's rules of procedure, the State Party should provide within one year relevant information on the implementation of the Committee's recommendations in paragraphs 7, 9 and 13 above. The Committee requests that information concerning the remainder of its recommendations be included in the third periodic report, to be submitted by 1 April 2009.