

## C.O.N.T.A.C.T. Desktop research results Lithuania

### Annex 2. Legal provisions, definitions and interpretations

#### *2.a) Relevant International Legal Provisions in Lithuanian context*

Country	Law	Ratified	Exceptions, declarations
Lithuania	International Covenant on Civil and Political Rights (ICCPR): articles 19 and 20	Ratified 1991	
Lithuania	International Convention on the Elimination of All Forms of Racial Discrimination (ICERD): article 4	Ratified 1998	
Lithuania	Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature	Ratified 2006	<b>Declaration contained in the instrument of ratification deposited on 12 October 2006</b>  In accordance with Article 6, paragraph 2, subparagraph a, and

	committed through computer systems (Council of Europe): articles 2-6		Article 12, paragraph 3, of the Additional Protocol to the Convention on Cybercrime, the Republic of Lithuania states that criminal liability for denial or gross minimisation arises if it has been committed “with the intent to incite hatred, discrimination or violence against any individual or group of individuals, based on race, colour, descent or national or ethnic origin, as well as religion if used as a pretext for any of these factors”.
<b>Lithuania</b>	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Adopted by UN General Assembly resolution 45/158 of 18 December 1990	Not signed	

## 2.b) Relevant Legal Provisions in the Lithuanian Penal Code

**Bias types - sex, sexual orientation, race, nationality, language, origin, social status, religion, conviction or belief, politics, ethnicity, cultural group, gender, social group.**

Country	Paragraph	

<p><b>Lithuania</b></p>	<p>Paragraph §99 §100</p>	<p><b>International crimes</b>  §99: prohibition of genocide, attempted genocide and complicity in genocide; provides for punishment by imprisonment  "Any person who aiming at physical destruction, in whole or in part, of people belonging to any national, ethnic, racial, religious, social or political group organized, directed or participated in killing, torturing, injuring, hampering of mental development, deporting or by other means creating such living conditions that inflicted their physical destruction in whole or in part, or imposed measures intended to prevent births within such group or forcibly transferred their children over to other groups, shall be punished by imprisonment from 5 to 20 years or life imprisonment."  §100: prohibition of violation of international humanitarian law including persecution on political, racial, national, ethnic, cultural, religious or gender grounds; provides for punishment by imprisonment.</p>
<p><b>Lithuania</b></p>	<p>Paragraph §170, 170(1)</p>	<p><b>Incitement to hatred/dissemination of racist ideas</b>  1. A person who, for the purposes of distribution, produces, acquires, sends, transports or stores the items ridiculing, expressing contempt for, urging hatred of or inciting discrimination against a group of persons or a person belonging thereto on grounds of sex, sexual orientation, race, nationality, language, descent, social status, religion, convictions or views or inciting violence, a physical violent treatment of such a group of persons or the person belonging thereto or distributes them shall be punished by a fine or by restriction of liberty or by arrest or by imprisonment for a term of up to one year.  2. A person who publicly ridicules, expresses contempt for, urges hatred of or incites discrimination against a group of persons or a person belonging thereto on</p>

		<p>grounds of sex, sexual orientation, race, nationality, language, descent, social status, religion, convictions or views shall be punished by a fine or by restriction of liberty or by arrest or by imprisonment for a term of up to two years.</p> <p>3. A person who publicly incites violence or a physical violent treatment of a group of persons or a person belonging thereto on grounds of sex, sexual orientation, race, nationality, language, descent, social status, religion, convictions or views or finances or otherwise supports such activities shall be punished by a fine or by restriction of liberty or by arrest or by imprisonment for a term of up to three years.</p> <p>170 (1): Creation and Activities of the Groups and Organizations Aiming at Discriminating a Group of Persons or Inciting against It. A person who creates a group of accomplices or an organized group or organization aiming at discriminating a group of persons on grounds of sex, sexual orientation, race, nationality, language, descent, social status, religion, convictions or views or inciting against it or participates in the activities of such a group or organization or finances or otherwise supports such a group or organization shall be punished by a fine or by restriction of liberty or by arrest or by imprisonment for a term of up to one year.</p> <p>Law on Amendment of Republic of Lithuania on Provision of Information to the Public prohibits instigating war, national, racial, religious and social discord and gender enmity and hatred.</p>
Lithuania	Paragraph §312	<p><b>Destruction of property</b> prohibition of destruction or desecration of graves and acts of vandalism in</p>

		cemeteries with racial, national or religious motivation; provides for punishment by public works, fine, restriction of freedom, arrest or imprisonment.
<b>Lithuania</b>	Paragraph §169, §171	<p><b>Civil rights violations</b></p> <p>§1 69: 'Any person, who commits an act intended at hindering a group of people or an individual belonging to such group on account of their sex, sexual orientation, race, nationality, language, origin, social status, religion, conviction or belief, to equally with others participate in political, economic, social, cultural, labour or other activities or to restrict rights and freedoms of such group of people or an individual belonging to this group, shall be punished by public works or fine, or restriction of freedom, or arrest, or imprisonment up to 3 years.'</p> <p>§171: prohibition of disturbance of religious services or celebrations of state recognized religious communities or associations; provides for punishment by public works, fine, restriction of freedom or arrest.</p>
<b>Lithuania</b>	Paragraph	<p><b>Racist organizations</b></p> <p>§214 Administrative Code prohibits creating or participating in the activities of an organization that instigates national, racial or religious enmity</p>

**2.c) Most recent recommendations from CERD, NGOs and responses and reports to CERD and other bodies in relation to the Lithuanian state's position re international legislation (Note there are no ENAR shadow reports for DK)**

Country	CERD Recommendation	Other
<p>Consideration of reports submitted by States parties under article 9 of the Convention, Sixth to eighth periodic reports of States parties due in 2014 : Lithuania <a href="http://www.refworld.org/publisher,CERD,,LTU,5652ff074,0.html">http://www.refworld.org/publisher,CERD,,LTU,5652ff074,0.html</a></p>	<p>The Committee on the Elimination of Racial Discrimination decided at its seventy sixth session (A/65/18, para. 85) that the Country Rapporteur would send to the State party concerned a short list of themes with a view to guiding and focusing the dialogue between the State party's delegation and the Committee during the consideration of the State party's report. This document contains a list of such themes, including:</p> <ul style="list-style-type: none"> <li>- The Convention in domestic law, and the institutional and policy framework for its implementation (arts. 1, 2, 4, 6 and 7)</li> <li>- Situation of ethnic and national minority groups, in particular Roma (art. 5)</li> <li>- Migrants, including refugees, stateless persons and asylum seekers (arts. 2 and 5)</li> </ul>	
<p>Consideration of reports submitted by States parties under article 9 of the Convention, Sixth to eighth periodic reports of States parties due in 2014 : Lithuania <a href="http://www.refworld.org/publisher,CERD,,LTU,5652fe5f4,0.html">http://www.refworld.org/publisher,CERD,,LTU,5652fe5f4,0.html</a></p>	<p>During the preparation of the report, due regard has been paid to the Committee's concluding observations on the fourth and fifth periodic reports of Lithuania, approved by the Committee at its 78th session on 10 March 2011 (CERD/C/LTU/CO/4-5). During the preparation of the report, due regard has also been paid to the report of Lithuania on the implementation of the recommendations provided in paragraph 30 of the concluding observations (CERD/C/LTU/CO/4-5/Add.1) and the Committee's letter asking for additional information following the analysis of that report (CERD/81st/FU/GH/FM).</p> <p><b>The Committee recommends that the State party provide the advisory bodies</b></p>	<p>The Office of the Equal</p>

	<p><b>dealing with human rights, including the Equal Opportunities Ombudsman, with appropriate human and financial resources in order to enable them to perform optimally. The Committee recommends that the State party establish an independent national human rights institution, in accordance with the Paris Principles (General Assembly resolution 48/134).</b></p> <p><b>The Committee encourages the State party to adopt a law on national minorities as soon as possible, giving effect to the relevant provisions of the Convention, in particular those of article 4.</b></p> <p><b>The Committee notes that no information has been provided regarding remedies granted to victims of racist and xenophobic acts.</b></p> <ul style="list-style-type: none"> <li>• Procedural rights are guaranteed to the victims of racial discrimination and xenophobia in all cases without exception in accordance with the main provisions of the Constitution, the Convention on the Elimination of Racial Discrimination and the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights). The procedural status of the victim in pretrial investigations and</li> </ul>	<p>Opportunities Ombudsperson functions since 1999, which is an independent state institution accountable to the Parliament, is one of the key institutions within the equal opportunities and gender equality machinery. <a href="http://lygybe.lt/en">http://lygybe.lt/en</a></p> <p>The draft Law on National Minorities has been submitted to the Parliament for its consideration in the autumn session in 2014 and spring session in 2015</p>
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	<p>criminal proceedings is governed by the Code of Criminal Procedure.</p> <ul style="list-style-type: none"><li>• Article 28 of the Code of Criminal Procedure, “Victim”, determines the rights of the victim and of the victim’s legal representative in criminal proceedings: to give evidence, to submit applications (having applied for the relevant actions of the pretrial investigation, the victim, under article 178 of the Code “Actions by prosecutors and investigating officials” shall be entitled to participate in the investigative actions carried out at his/her request, to ask questions at the hearings, to get acquainted with the records of actions carried out at his/her request, and to comment on the content of these records), to challenge judges; to have access to the case during the pretrial investigation and the trial (during the pretrial investigation, the victim has the right to access the pretrial file at any time), to participate in the trial proceedings before the court, to appeal against the actions of the pretrial investigation officer, prosecutor, the judge of pretrial investigation and the court, as well as to appeal against the judgement or ruling, and to deliver the final speech before the court.</li><li>• In cases specified in the Law on State-Guaranteed Legal Aid, the victim in a criminal case concerning offences against equality or freedom of conscience is entitled to State-guaranteed secondary legal aid. Secondary legal aid involves State-guaranteed assistance by an advocate in court, which includes drafting of documents, defence and case representation in court, including the process of execution. The aforementioned law ensures that persons eligible for State-guaranteed secondary legal aid are those whose property and annual income do not exceed the property and</li></ul>	
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	<p>income levels established by the Government for the provision of legal aid. The aggrieved parties in the cases concerning compensation for the damage incurred through criminal actions, including the cases when the issue of compensation for damage is heard as part of a criminal case shall be eligible for secondary legal aid regardless of the property and income levels established by the Government. The eligibility of these persons for secondary legal aid shall be attested to by a decision of a pretrial investigation officer, prosecutor or by a court ruling recognizing a person as the aggrieved party and/or by a court judgement. Information on victims' access to State-guaranteed legal aid is provided in the sample form of the decision to recognize the aggrieved party as amended by Order No. I-107 of 22 July 2009 of the Prosecutor General.</p> <ul style="list-style-type: none"><li>• Article 128 of the Code of Criminal Procedure, "Notification of suspect's arrest", sets forth an imperative that the prosecutor or the officer of pretrial investigation must inform the victim in a case concerning a racist or discriminatory offence about the offender's (suspect's) arrest and determine whether the victim wishes to be notified of the future release of the suspect. Notification of the suspect's arrest is not necessary if the victim's place of residence is unknown. The suspect and his counsel are prevented from accessing the contents of the documents endorsing these actions.</li><li>• Pursuant to the provisions of article 198 of the Code of Criminal Procedure, "Right to claim anonymity by the victim or the witness", and article 199, "Grounds for granting anonymity for the victim and the witness", the victim or witness of any grave, serious or less serious crime,</li></ul>	
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	<p>where there is a real danger to the life, health, liberty or property of the victim, witness or their family members or close relatives, as well as their interests of service, business or other legitimate interests, where the testimony of the victim or witness is relevant to criminal proceedings, as well as in cases of crimes on racist and discriminatory grounds, may request the prosecutor or the officer of pretrial investigation to ensure his/her anonymity in accordance with the procedure prescribed by the Code. The anonymity can be granted at the prosecutor's initiative only if all the aforementioned grounds are met. From 2008 to mid-2013, no applications for anonymity were filed and anonymity was never actually granted in criminal cases concerning racist or discriminatory offences.</p> <ul style="list-style-type: none"> <li>• In exceptional cases, where the victim of racial discrimination and xenophobia offences faces real danger to life, he/she may be granted State protection. It should be noted that such exclusive security measure for a victim of racist, xenophobic, discriminatory offences has never been applied in criminal proceedings due to the absence of substantive grounds.</li> </ul> <p><b>The Committee also requests further information on the impact of training courses and campaigns on the elimination of racial discrimination.</b></p> <p><b>In the view of the recent resurgence of activities by neo-Nazi groups (including a march held in February 2012), the Committee requests further information on any prosecutions or convictions based on Law No. XI-330 of 9 July 2009</b></p>	<p>In order to prevent racial discrimination and promote tolerance, the Government has prepared and approved national strategies, programmes</p>
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	<p><b>criminalizing activities of groups and organizations which promote racial hatred and discrimination.</b></p> <p><b>The Committee requests information on further efforts undertaken by the State party, including legislative, judicial, policy and educational measures to halt activities of such organizations and prevent racial discrimination.</b></p> <p><b>The Committee recommends that the State party monitor any form of racial segregation in the light of its general recommendation No. 19 (1995) on the prevention, prohibition and eradication of racial segregation and apartheid and include this information in its next periodic report on racial segregation and apartheid (art. 3 of the Convention), bearing in mind that conditions of racial segregation are not created only by governmental policies but may arise as an unintended by-product of the actions of private persons such as ghetto-like housing and other forms of social isolation.</b></p> <p><b>The Committee recommends that the State party make full use of its general recommendation No. 31 (2005) on prevention of racial discrimination in the administration and functioning of the criminal justice system, including by developing appropriate education programmes for both law enforcement officers and minority groups.</b></p> <p><b>The Committee requests updated data on targeted initiatives, and the impact and concrete results of the Action Plan for Roma Integration into the Lithuanian Society for 2012–2014 in terms of education, employment and access to health services by the Roma community.</b></p>	<p>and action plans, such as the National Anti-Discrimination Programme for 2009–2011, the Inter-Institutional Action Plan for Promotion of Non-Discrimination for 2012–2014, the Strategy for the Development until 2015 of the National Minorities Policy, the Programme for Roma Integration into the Lithuanian Society for 2008–2010, the Action Plan for Roma Integration into the Lithuanian Society for 2012–2014, and the National Programme on Equal Opportunities for Women and Men for 2010–2014</p>
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**The Committee recommends that the State party should increase efforts in ensuring that Roma children integrate in the mainstream schools, resolutely address the problem of Roma children dropping out of school and promote Roma language in the school system.**

**The Committee invites the State party to strengthen its policies and programmes for the integration of minority groups, in particular the integration of Roma into Lithuanian society in the light of its general recommendation No. 27 (2000) on discrimination against Roma.**

**The Committee encourages the State party to consider ratifying those human rights treaties which it has not yet ratified, in particular treaties the provisions of which have a direct bearing on the subject of racial discrimination, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) and the Convention against Discrimination in Education of the United Nations Educational, Scientific and Cultural Organization (1960). The Committee requests that the State party include specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.**

**The Committee recommends continuing consulting and expanding the dialogue with organizations of civil society working in the area of human rights protection.**



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