



Distr.

GENERAL

## Convention on the Rights of the Child

CRC/C/OPSC/LTU/1

21 April 2008

Original: ENGLISH

### COMMITTEE ON THE RIGHTS OF THE CHILD

#### CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 12, PARAGRAPH 1, OF THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF

#### CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

#### Initial reports of States parties due in 2007

#### LITHUANIA

[3 August 2007]

#### REPORT ON THE IMPLEMENTATION OF THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

##### I. GENERAL PROVISIONS

1. On 10 June 2004, the Seimas of the Republic of Lithuania ratified the Optional Protocol of 2000 to the Convention on the Rights of the Child of 1989 on the sale of children, child prostitution and child pornography (*Valstybės žinios* (Official Gazette) No 108-4028, 2004) (hereinafter referred to as the Optional Protocol). Its provisions came into force in Lithuania on 5 September 2004.

2. The Constitution of the Republic of Lithuania and the Law of the Republic of Lithuania on Treaties (*Valstybės žinios* (Official Gazette) No 60-1948, 1999) provides that all international agreements ratified by the Seimas of the Republic of Lithuania shall be an integral part of the legal system of the State. If an international agreement which has been ratified and entered into force contains provisions different from those established by laws of Lithuania, the provisions of the international agreement shall prevail.

3. The initial report on the implementation of the Optional Protocol was prepared by a working group set up by Order No 1R-203 of 1 July 2006 of the Minister of Justice, comprised of representatives from the Ministry of Justice, the Ministry of Social Security and Labour, the Ministry of Health, the Ministry of Education and Science, the Ministry of the Interior, the Prosecutor's Office, the Office of the Ombudsman for the Protection of the Rights of the Child, and the State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour. The Ministry of Foreign Affairs has also contributed to the preparation of this report by supplying the required information. The draft report was submitted to non-governmental organizations: the Lithuanian National Committee for UNICEF, Lithuania's child protection organization Save the Children Lithuania, the Lithuanian Centre for Human Rights, and the Human Rights Monitoring Institute, for information. The Lithuanian Centre for Human Rights issued its comments on the draft report, which was modified to incorporate those comments, before being submitted to governmental institutions for consideration. The report was approved by a resolution of the Government of the Republic of Lithuania.

4. The Report was prepared in accordance with the guidelines for initial reporting under the Optional Protocol, issued by the Committee on the Rights of the Child (CRC/OP/SA/1).

5. Seeking to ensure better coordination of the child protection policy, the Seimas of the Republic of Lithuania passed, on 24 September 2002, a Law Amending Articles 59 and 61 of and Supplementing the Law of the Republic of Lithuania on Fundamentals of Protection of the Rights of the Child (*Valstybės žinios* (Official Gazette) No 95-4090, 2002), which stipulates that the Seimas of the Republic of Lithuania, the Government of the Republic of Lithuania, ministries, the Prosecutor's Office, other public authorities shall, within their competence, develop and implement measures in the field of respect for and protection of the rights of the child. The Law also stipulates that the Government shall designate one ministry to be responsible in the field of protection of the rights of the child. Pursuant to this Law, the Ministry of Social Security and Labour was designated, by resolution No. 194 of the Government of the Republic of Lithuania of 6 February 2003 on the Designation of the Ministry of Social Security and Labour to be Responsible in the Field of Protection of the Rights of the Child and on the Definition of Competence of Other Ministries (*Valstybės žinios* (Official Gazette) No 15-611, 2003), to be responsible in this field; competence of other ministries was defined. New functions related to the implementation of protection of the rights of the child were delegated to the Ministry of Education and Science, the Ministry of the

Interior, the Ministry of Justice, and the Ministry of Health. A new department, the Family, Children and Youth Department, was established within the Ministry of Social Security and Labour on 1 October 2002, with two divisions: the Family Support Division, and the Children and Youth Division. The latter is responsible for coordinating the implementation of child and youth protection policies.

6. With a view to separating the formation and implementation of the child protection policy, the Government of the Republic of Lithuania issued Resolution No. 1114 of 20 October 2005 on the Approval of Regulations of the State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour (*Valstybės žinios* (Official Gazette) No. 126-4501, 2005), whereby new functions were delegated to the Adoption Service under the Ministry of Social Security and Labour and its name changed to the State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour. This Service is now responsible not only for organizing child adoption in the Republic of Lithuania, but also for ensuring the implementation of child protection measures, implementing the system of representation of child rights and legitimate interests in courts, and organising advanced training for staff of municipal child protection services and training for guardians (foster parents) and adoptive parents.

7. The institution of the Ombudsman for the Protection of the Rights of the Child is a public authority responsible for monitoring and controlling whether the rights of the child are respected. The main task of this institution is to monitor the implementation in the Republic of Lithuania of the provisions of international and national legal acts on the protection of the rights and legitimate interests of the child. Article 12 of the Law of the Republic of Lithuania on the Ombudsman for the Protection of the Rights of the Child (*Valstybės žinios* (Official Gazette) No 50-1432, 2000) lays down duties of the Ombudsman for the Protection of the Rights of the Child. The Ombudsman:

(a) Examines complaints filed by natural or legal persons about acts or omissions by state or municipal institutions or agencies or their officials, non-public institutions and other natural or legal persons, also enterprises without legal personality, which infringe or might infringe rights or legitimate interests of the child, and takes one of the decisions provided for in Article 25 of the Law;

(b) Monitors the implementation in Lithuania of the provisions of the Constitution of the Republic of Lithuania, conventions ratified by the Seimas of the Republic of Lithuania, and laws and other legal acts of the Republic of Lithuania on the protection of rights and legitimate interests of the child;

(c) Monitors and controls activities of institutions acting in the field of protection of rights and legitimate interests of the child, that prejudice or might prejudice the rights and legitimate interests of the child;

(d) Makes proposals to the Seimas of the Republic of Lithuania and the Government of the Republic of Lithuania for measures to be taken to improve the protection of rights and legitimate interests of the child granted by laws and other legal acts of the Republic of Lithuania.

8. The present report does not repeat the information provided in the report on the implementation of the Convention on the Rights of the Child (CRC/C/83/Add.14) approved by resolution No. 142 of the Government of the Republic of Lithuania of 9 February 2004 (*Valstybės žinios* (Official Gazette) No 24-739, 2004). As part of implementing the Optional Protocol, the Convention on the Rights of the Child is being implemented further and efforts are being made to grant additional guarantees for the protection of the rights of the child, and at the same time not to affect the progress made so far in implementing the Convention. Thus, this report is supplementary to the 2004 report on the implementation of the Convention on the Rights of the Child and information provided herein should be read in conjunction with information in the said report. For instance, the implementation of the Optional Protocol with respect to protection against discrimination and the extent of such protection should be assessed with reference to information given in paragraphs 48 to 66 of the above report on the implementation of the Convention; child adoption procedures in the Republic of Lithuania, in paragraphs 254 to 268; prevention of sexual violence and protection of the rights of children who have suffered from sexual violence, in paragraphs 272 to 294; position of minors in criminal proceedings and compensation for damage resulting from criminal offences, in paragraphs 526 to 536; and the fight against sexual exploitation and abuse, in paragraphs 613 to 617.

## **II. ANALYSIS OF THE PROBLEM OF SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY IN LITHUANIA**

9. The problem of commercial sexual exploitation and sale of children and child prostitution and pornography is painful for the Republic of Lithuania because of the economic, social and geographic location of the State (a transit country). However, owing to the latent nature of this phenomenon, it is difficult to make an accurate assessment of the extent of threats posed by this problem and its actual prevalence in Lithuania.

10. Regulations of the State Child Rights Protection and Adoption Service approved by Resolution No. 1114 of the Government of the Republic of Lithuania of 20 October 2005 have expanded the functions of the service with a new task, namely: to collect annually from municipal child protection services and State institutions and agencies statistical information about children, to systemize and analyse this information and to deliver it to the Ministry of Social Security and Labour and other State and municipal institutions.

11. At the beginning of 2006, the State Child Rights Protection and Adoption Service collected from municipal child protection services statistical data about instances of violence committed against children in 2005, including sexual abuse, according to the list of statistical indicators about children as approved by resolution No. 695 of the Government of the Republic of Lithuania of 8 June 2004 (*Valstybės žinios* (Official Gazette) No 92-3364, 2004).

12. Below is some general information about violence against children (including sexual abuse) in Lithuania in 2005.

13. By the data of municipal child protection services, 2,311 children suffered from violence in 2005. This figure has not changed much from the respective figure of 2004, when 2,359 instances of violence against children were recorded. Prevalence of abuse as percentage of population shows that 0.27 per cent of all children living in Lithuania as of 1 January 2005 suffered violence in 2005.

The highest prevalence of violence against children is recorded in the counties of Vilnius (0.54 per cent) and Utena (0.32 per cent).

14. Table 1 below gives comparative data for 2005 and 2004 by county. As can be seen from this data, the figure for Vilnius county has increased. In Vilnius town alone, there were 72 victims of violence more in 2005 than in 2004.

**Table 1**

**Prevalence of violence against children, 2004-2005**

County	Number of children, total	2005	2004		
Instances of violence, total	Percentage	Instances of violence, total	Percentage		
Vilnius	185 717	1 004	0.54	855	0.46
Kaunas	160 330	341	0.21	409	0.25
Klaipėda	93 748	159	0.16	364	0.38
Šiauliai	92 480	227	0.24	270	0.29
Panevėžys	72 574	145	0.19	144	0.19
Alytus	45 715	83	0.18	85	0.18
Utena	42 471	136	0.32	87	0.2
Marijampolė	49 441	86	0.17	82	0.17
Tauragė	36 201	75	0.2	13	0.03
Telšiai	49 273	55	0.11	50	0.11
Total	827 950	2 311	0.27	2 359	0.28

Source: Data from the State Child Rights Protection and Adoption Service.

15. By the data of municipal child protection services, most instances of violence (63.34 per cent) were physical violence.

**Figure 1**

Source: Data from the State Child Rights Protection and Adoption Service.

16. There are several reasons for this. Firstly, physical violence is most detectable. Secondly, physical violators are much more easy to establish and punish than sexual or psychological ones.

17. Like in the previous year, boys suffer from violence more frequently than girls, but sexual violence is more often targeted at girls.

**Figure 2**

Source: Data from the State Child Rights Protection and Adoption Service.

18. Urban children are affected by violence almost twice as much as rural children. But if we looked at the prevalence of violence as percentage of population rather than at the total instances of violence, we would see that violence in urban and rural areas is almost of the same level. Moreover, note should also be taken of different degree of activity in urban and rural areas. By the data of the survey conducted by the Ministry of Social Security and Labour, rural people are most indifferent to violence against children committed by their neighbours. Moreover, many of them consider that assistance to a battered or otherwise maltreated child is a responsibility of professionals; however, professionals are more accessible to urban people. Therefore, a great number of instances of violence in rural areas are never reported at all.

**Table 2**

**Prevalence of violence**

Prevalence of abuse as percentage	Number of children, total	Instances of violence, total	Percentage	Quantitative incidence of violence	Number of children, total
Vilnius, Kaunas, Klaipėda, Šiauliai, Panevėžys, Alytus	313 379	971	0.3	Urban	1 397
Regions	514 571	1 340	0.26	Rural	885

Source: Data from the State Child Rights Protection and Adoption Service.

19. Most victims of violence are children aged 10-14 and 15-17. Adolescence is one of the most complicated stages in the development of a child. In the effort to establish his/her identity, an adolescent often engages other persons in his/her actions. In the transition from his/her union with the family to the stronger ties with his/her peers, an adolescent gains more independency. Having escaped from parental influence, an adolescent is increasingly willing to take over his/her peers' values. It has long been known that the more intensive peer interaction, the more probable asocial behaviour. Certainly, misbehaviour is not always related with belonging to a group of contemporaries. Often, certain behavioural patterns are formed in the family. A child who suffers from aggression, underestimation and criticism in the family is likely to commit acts of violence against others, seeking to gain more power. It is because of conflicts among contemporaries that most victims of violence are children aged 10-17.

### Figure 3

*Source:* Data from the State Child Rights Protection and Adoption Service.

20. Sexual, physical and psychological violence are all mostly targeted at children aged 10-14. It has been established that violators most often target children who are weaker than they themselves are. A child of 10-14 years is on a sort of a crossroad of different stages of age, where he/she is quite self-dependent and is therefore subject to looser parental protection but is not so powerful and self-confident as a child of 15-17 years.

### Figure 4

*Source:* Data from the State Child Rights Protection and Adoption Service.

21. According to the data of municipal child protection services, sexual abuse is the least prevalent type of violence against children; however, as much as 20.7 per cent (29 cases) of victims of sexual abuse were abused by other minors; 22 of them were sexually abused by strangers, and 7 by minors close to them. Sexual abuse of children refers not only to sexual acts committed to satisfy another person's sexual desire but also acts by which another person (usually, an adult) derives material benefit (e. g. child pornography and prostitution). Although more girls than boys suffered from sexual violence in 2005 (104 instances of 140), boys more often become victims of sexual violence by minors (21 boys and only 8 girls). In 2005, 17 boys and 5 girls suffered from sexual violence by under-age strangers, and 4 boys and 3 girls from violence by minors close to them.

22. Most often, under-age strangers sexually abuse children aged 7 to 9 (6) and 10 to 14 (10).

### Figure 5

*Source:* Data from the State Child Rights Protection and Adoption Service.

23. Sexual violence by close minors is most often targeted at children aged 4 to 6 (3). By the data of municipal child protection services, in 2005, 111 children (79.3 per cent of victims of sexual abuse) were sexually abused by adults; of this number, 30 children were abused by people close to them. Most victims of sexual abuse by adults were girls (95).

### Figure 6

*Source:* Data from the State Child Rights Protection and Adoption Service.

24. Most victims of sexual abuse by adult strangers are children aged 15 to 17 (36) and 10 to 14 (30).

### Figure 7

*Source:* Data from the State Child Rights Protection and Adoption Service.

25. Sexual abuse by adults close to the victims was also mostly targeted at older children in 2005. The Chart below shows the number of such victims by age.

### Figure 8

*Source:* Data from the State Child Rights Protection and Adoption Service.

26. In the effort to protect a child against violence by his/her parents or other legal representatives of the child or against other risks posed by the abuse of parental powers (including risks to the child's health or life), in 2005, 233 children were taken from their parents or other legal representatives, 243 reports of administrative offences were drawn up against violators, and 1,458 criminal actions were brought, 252 of which were initiated by municipal child protection and adoption services.

27. By the data of the Information Technologies and Communications Department under the Ministry of the Interior, criminal acts covered by article 147 (Trafficking in human beings), of the Criminal Code of the Republic of Lithuania (hereinafter referred to as the CC) (*Valstybės žinios* (Official Gazette) No 89-2741, 2000) were committed against one child in 2004 and two children in 2005. Criminal acts covered by article 308 of the CC (Engaging another person in prostitution), were committed against two children in 2004 and one child in 2005. No crimes covered by article 157 of the CC (Procurement or sale of a child), were recorded in 2004-2005 (before 30 June 2005, article 157 of the CC imposed liability for a procurement or sale of a young child only). Two (2) crimes under article 162 of the CC (Child exploitation for pornographic purposes), were recorded in 2005, and none in 2004. Seven (7) crimes under article 307 of the CC (Deriving profit from a minor's prostitution), were recorded in 2005, and four in 2004; six crimes under article 309.2 of the CC (Dealing in items of pornographic content, with an image of a child or a person presented as a child) were recorded in 2005, and four in 2004.

28. Apart from statistical information, the situation in Lithuania as regards sale of children, child prostitution and child pornography can also be judged from complaints received and investigations initiated by the Ombudsman for the Protection of the Rights of the Child. Major problems are described below.

29. The public knows very little about child prostitution and pornography, its causes and possible solutions. There is a lack of qualified and effective network of assistance that would cover prevention, intervention and post-intervention measures. Institutional staff does not have sufficient knowledge about this problem, about ways of involving children into this activity, or means and instruments of the fight against this problem. They lack skills in finding the most appropriate ways of informing children about the harm and

consequences of trafficking in human beings, prostitution, pornography and other commercial exploitation.

30. Children under 18 years of age, in particular adolescent girls living in special boarding schools, special child-education and care homes, governmental and non-governmental child-care homes, or social at-risk families, very often become victims of trafficking in human beings, prostitution and pornography. This is because children of such homes and families may be easily bought with exceptional attention, care and attendance, promises, presents and other things which they lack and miss.

31. Runaway children, who are also called street children, i.e. children who are prone to commit offences or crimes, and whose behaviour is different than commonly accepted behavioural patterns, or children exploited or abused in the family or other environment surrounding them in which they are supposed to feel safe, also quite easily and often voluntarily become victims of trafficking in human being, prostitution and pornography.

32. Children's inability to understand the harm of prostitution, pornography and other kinds of exploitation is evidenced by the fact that they themselves often try to make contacts with persons engaged in the business of prostitution, pornography and trafficking in human beings, and offer their services. Such children have the aim of earning money to become independent and self-supporting. They see prostitution and pornography as a source of fast, easy and decent earnings.

33. Sometimes children are engaged in the network of trafficking in human beings and commercial sexual exploitation through their parents' (guardians') credulity, when parents are lured by the opportunity of a good earning, wealthy life, seeing the world (for instance, employed as a model).

34. Another difficult task is to ensure the security of children who visit Internet cafés, go to discos and other public places or who are Internet users: spend time in chat or "lonely heart" websites, send short messages, etc. Over one million people are Internet users in the Republic of Lithuania. Over 60 per cent of people using the Internet are children and adolescents, of whom 40 per cent are between 10 and 14 years of age; unfortunately, Internet users become increasingly young. Children are inquisitive and active, but their immaturity makes them especially vulnerable. Information technologies are not only a risk of addiction to a computer, computer games or the Internet and a risk to a child's health and have a negative impact on learning performance and educative results or on behaviour but are also a source of negative information promoting bad habits and posing a danger of entering a sex services market (child pornography, prostitution, paedophilia, etc.) and of entrenchment and expansion of commercial sexual exploitation of children and multiplication of victims of commercial sexual exploitation.

### **III. IMPLEMENTATION OF INDIVIDUAL PROVISIONS OF THE OPTIONAL PROTOCOL**

#### **Implementation of articles 1 and 2**

35. Article 2 of the Law of the Republic of Lithuania on the Fundamentals of Protection of the Rights of the Child (*Valstybės žinios* (Official Gazette) No 33-807, 1996) provides that a child is a human being below the age of 18 years, unless otherwise established by laws. As the CC does not establish any exceptions to this provision, the terms of criminal law "child" and "minor" are equivalent and mean a person below 18 years of age. The term "young child" means a person below 14 years of age. Case-law on this issue is coherent and unambiguous.

36. The CC prohibits sale of children, child prostitution and child pornography. Article 157 of the CC (Procurement or sale of a child) imposes criminal liability on a person who has offered to buy or otherwise procure a child or who has sold, procured or otherwise transferred to another person or procured a child or who has recruited, transported or held captive a child knowing that the child will be engaged into prostitution or that proceeds will be derived from the child's prostitution or that the child will be exploited for pornography or forced labour purposes, or having an intention to do so. Article 162 of the CC (Child exploitation for pornographic purposes) imposes criminal liability on a person who has engaged a child in a pornographic event or exploited a child for the production of pornographic items or who has derived proceeds from such activity of a child. Article 307 of the CC (Deriving profit from another person's prostitution) imposes criminal liability on a person who has derived proceeds from a minor's prostitution or who has organized or directed a minor's prostitution or who has transported a minor with the minor's consent to or from the Republic of Lithuania for prostitution. Article 308 of the CC (Engaging another person into prostitution) imposes criminal liability on a person who has engaged, in any manner, a minor into prostitution. Article 309 of the CC (Dealing in items of pornographic content) imposes criminal liability on a person who has produced, procured, possessed, demonstrated, advertised or distributed items of pornographic content, with an image of a child or a person presented as a child.

#### **Implementation of article 3**

37. According to article 157 of the CC (Procurement or sale of a child), anyone who has offered to buy or otherwise procure a child or who has sold, procured or otherwise transferred to another person or procured a child or who has recruited, transported or held captive a child knowing that the child will be engaged into prostitution or that proceeds will be derived from the child's prostitution or that the child will be exploited for pornography or forced labour purposes, or having an intention to do so, shall be punished by imprisonment for a term of 3 to 12 years. Anyone who has committed such acts against two or more children or against a minor or as a member of an organised group or with an intention to obtain a bodily part, tissue or cells of the victim shall be punished by imprisonment for a term of 5 to 15 years. This article principally covers the acts referred to in points (a) and (b) of article 3, paragraph 1, of the Optional Protocol, as it prohibits any kind of offering, delivering or accepting a child for the purpose of exploitation for prostitution, pornography or forced labour, whatever the means or instruments are used for such delivery. Where all attributes are established, both the actual buyer and the actual seller of the child as well as the intermediary, if any, should be punished as if they were offenders (co-offenders) or accomplices. Moreover, even in the failure to prove the entire mechanism of procurement or sale of a child, the perpetrator may be prosecuted under article 146 of the CC (Illegal deprivation of liberty), article 1471 (Exploitation for the purpose of forced labour), article 148 (Restraint of the freedom of action of a person), article 156 (Kidnapping), article 162 (Child exploitation for pornographic purposes), article 227 (Bribing), article 307 (Deriving profit from another person's

prostitution), and article 308 (Engaging another person into prostitution).

38. Acts referred to in article 3, paragraph 1 (c), of the Optional Protocol are prohibited in paragraphs 2 and 3 of article 309 of the CC (Dealing in items of pornographic content). Under paragraph 2 of this article, anyone who has produced, procured, possessed, demonstrated, advertised or distributed items of pornographic content with an image of a child or a person presented as a child, shall be punished by imprisonment for up to two years. Under paragraph 3 of this article, anyone who has produced or procured, with the aim of distributing, or distributed items of pornographic content, with an image of a young child or a person presented as a young child, shall be punished by imprisonment for up to five years.

39. The criminal law does not define the terms “prostitution” and “pornography”, leaving the task of defining them to the theory and practice of the criminal law. Given that the Republic of Lithuania follows a monistic approach to the application of international legal instruments, a court must interpret these terms in accordance with international agreements, including the Optional Protocol. Reference can be made to the recommendations to members of the Ethics Commission of Journalists and Publishers, “On mass media classification criteria”, issued by Decision No. SPR-14 of 4 August 2005 of the Inspector of Journalist Ethics (*Valstybės žiniuos* (Official Gazette) No 96-3624, 2005), which propose to deem pornographic those videos, publications or programs which:

- (a) Explicitly feature sexual intercourse or any other act of erotic practice (masturbation, oral sex, etc.) with a close-up view of sex organs, or where such images are dominant in the publication, video or programme;
- (b) Feature sexual intercourse or erotic practices with children;
- (c) Feature sexual perversion (masochism, sadomasochism, necrophilia, zoophilia, etc.);
- (d) Show, in a photo or video picture, a close-up view of sex organs;
- (e) Narrate, in an audio recording or a written text, sexual intercourse referred to in items (a)-(d) above, using obscene language and reproducing sounds of a sexual intercourse.

40. Article 22 of the CC (Attempt to commit a criminal act) imposes criminal liability for any intentional act covered in the Special Part of the CC, which is a start of a criminal offence or misdemeanour, if the act has not been completed for reasons outside the perpetrator’s will. Article 24 of the CC (Complicity and types of accomplices) imposes criminal liability on accomplices in any intentional criminal act such as perpetrators, organizers, aiders and abettors. These persons are liable for attempts and complicity under the above-mentioned articles of the General Part of the CC and a respective article (or paragraph or point) of the Special Part of the CC. However, a court may decide to impose a lighter punishment, where extenuating circumstances exist, where the material damage, if any, has been compensated or rectified, and where the act failed on the stage of attempt to commit it or where the perpetrator’s role as an accomplice in the offence was secondary.

41. Decision on a punishment for a sale of children, child prostitution and child pornography takes into account, inter alia, the following mitigating and aggravating circumstances (art. 29 of the CC, “Mitigating circumstances”, and art. 60 of the CC, “Aggravating circumstances”):

(a) Mitigating circumstances include the following:

The perpetrator confesses the criminal act and sincerely regrets it or assists in investigating the act or establishing other perpetrators

The act was committed under mental or physical coercion, if only this coercion does not completely relieve him of criminal liability

The perpetrator is a person of diminished capacity

The act was committed by a person who was in a state of involuntary intoxication

The person’s attempt at renunciation of the criminal act has been unsuccessful

A court has a right to deem other circumstances as mitigating

(b) Aggravating circumstances include the following:

The act was committed by a group of accomplices

The act was committed by an organised group

The act was committed as a result of disorderly conduct or for personal gain or out of other motives

The act was committed by torturing the victim or subjecting the victim to degrading treatment

The act was committed against a young child

The act was committed by a person in a state of alcoholic intoxication or under the influence of narcotic, psychotropic or toxic substances

The act committed caused grave consequences

42. Limitation periods for judgements of conviction are laid down in article 95 of the CC (Limitation period of a judgement of conviction). Under the said article, a judgement of conviction may not be issued against a person after a lapse of 15 years from the date of sale or procurement of a child. A judgement of conviction may not be issued against a person accused of production,

distribution, dissemination, import, export, offering, sale or possession of child pornography, after a lapse of five years from the date of the offence. The period of statutory limitation for a person who has produced or procured with the aim of distributing, or disseminated large quantities of items of pornographic content, with an image of a young child, is eight years from the date of the offence. If the offender hides from a pre-trial investigation or trial, the period of limitation is suspended. The period of limitation is resumed on the date of detention of the offender or his volunteer appearance and confession. However, if 15 years have passed from the offence, the offender cannot be convicted. If the offender commits a new offence within periods laid down in the said article, the period of limitation is interrupted. In this case, the period of limitation for the first offence starts anew from the date of the new offence or misdemeanour.

43. For criminal acts covered by article 20 of the CC (Criminal liability of a legal person), prosecution may also be directed against a legal person. As defined in article 2.33 of the Civil Code of the Republic of Lithuania (hereinafter referred to as the CvC) (*Valstybės žinios* (Official Gazette) No 74-2262, 2000), a legal person is an enterprise or an organisation which has its business name, which may in its name gain and enjoy rights and assume obligations as well as act as a defendant and as a plaintiff in courts. In the CC, the concept of a legal person is used in the meaning defined in the CvC; however, article 20.5 of the CC clarifies that a State, a municipality, a State or municipal institution or agency, and an international public organization shall not be liable under the CC. Pursuant to article 20 of the CC, a legal person is liable for criminal acts committed by a natural person only if the criminal act was committed for the benefit or interests of the legal person by a natural person acting individually or in the name of the legal person, where this natural person holding executive office in the legal person had the power to:

- (a) Represent the legal person;
- (b) Take decisions on behalf of the legal person; or
- (c) Manage the legal person's activities.

44. A legal person can also be liable for criminal acts committed for the benefit of the legal person by an employee or authorized agent of the legal person owing to insufficient supervision or control over that natural person. It should be noted that criminal liability of a legal person does not eliminate criminal liability of a natural person who has committed, organized, abetted or assisted in the commission of the criminal act. Article 43 of the CC (Types of punishment for legal persons) imposes the following types of punishment for legal persons: a fine, restriction of activities of the legal person, or a liquidation of the legal person.

45. Article 3, paragraph 5, of the Optional Protocol provides that States parties shall take all appropriate legal and administrative measures to ensure that all persons involved in the adoption of a child act in conformity with applicable international legal instruments. Pursuant to article 14 of the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption (*Valstybės žinios* (Official Gazette) No 101-2550, 1997), families and persons who wish to adopt a child in another country shall apply to central authorities or accredited bodies of their own country. To ensure a smooth and transparent implementation of intercountry adoption procedures, the Minister of Social Security and Labour approved, by Order No. A1-162 of 3 June 2005 (*Valstybės žinios* (Official Gazette) No 73-2668), the Procedure for Authorizing Foreign Authorities to Act in the Context of Intercountry Adoption in the Republic of Lithuania. According to this procedure, only those foreign authorities may act in the Republic of Lithuania which have been granted an authorization to act.

46. This procedure lays down:

The conditions and procedure for the granting, expiry, extension, suspension and withdrawal of authorizations

Functions, rights and obligations of authorized foreign authorities

47. By order of the Minister of Social Security and Labour, a Commission was formed to issue recommendations for the granting or refusal of authorizations to foreign authorities to act in the Republic of Lithuania. The right to take a decision to grant or refuse an authorization to a foreign authority to act in Lithuania in the context of intercountry adoption is vested with the Director of the State Child Protection and Adoption Service, who shall, in doing so, take account of recommendations of the Commission.

48. Foreign authorities authorized to act in the Republic of Lithuania must:

Comply with laws and other legal acts of the Republic of Lithuania and international legal instruments

Refrain from seeking to obtain illegal financial benefit or unreasonably large consideration for the activities performed

Annually report their activities carried out in the proceeding year, to the State Child Rights Protection and Adoption Service

49. Currently, 15 foreign authorities have been accredited to act in the Republic of Lithuania: six from the United States of America, four from Italy, and one each from Sweden, Germany, Spain, France and New Zealand.

50. The procedure for accreditation of foreign authorities ensures that only competent persons with a proper educational background, experience and ethic values relevant in the field of intercountry adoption act in the Republic of Lithuania, this being one of the measures to control activities of such authorities and improve intercountry adoption procedure.

51. Authorized foreign authorities provide the State Child Rights Protection and Adoption Service with feedback about children adopted (twice a year in the first two years after adoption, once a year in the next two years, and later on request of the Adoption Service). The feedback information consists of reports in a pre-defined form about integration of the adopted child in the family, about his/her living conditions, development and health, and video material. To ensure a better quality of the intercountry adoption procedure and a better coordination and control of activities carried out by the relevant authorities, paragraph 2.2 of the Procedure for Authorizing Foreign Authorities to Act in the Context of Intercountry Adoption in the Republic of Lithuania approved by Order

No. A1-162 of 3 June 2005 of the Minister of Social Security and Labour specifies that no applications for authorizations to act in the context of intercountry adoption in the Republic of Lithuania shall be accepted from foreign authorities from 1 August 2006. This order also prescribes that a foreign authority authorized to act in the context of intercountry adoption, or a central adoption authority of the receiving State, may file applications of no more than two families (persons) wishing to adopt a child (children) under 6 years of age in one calendar year, except if such applications concern a child (children) with special needs. This approach is aimed at improving the protection of the rights of children above 6 years of age and children with special needs, by securing them more chances to be adopted.

52. As part of implementing article 3.217 of the CvC, which provides that certified social workers of the State institution for adoption shall verify the preparedness for adoption, the Minister of Social Security and Labour approved, by Order No. A1-154 of 18 June 2004 (*Valstybės žinios* (Official Gazette) No 98-3653, 2004), the Procedure for Verifying Preparedness of Adopters to Adopt a Child, which specifies what data about persons wishing to adopt a child shall be collected by a certified social worker of the adoption service and sets the time-limits for the initial evaluation of prospective adopters, also specifies who and how should organise training for adopters which is mandatory for all prospective adopters, except those who wish to adopt a child of the spouse. This procedure regulates verification of preparedness not only of nationals of the Republic of Lithuania, but also of aliens permanently residing in Lithuania.

#### **Implementation of article 4**

53. Procurement or sale of a child covered in article 157 of the CC are attributed, under article 7 of the CC (Criminal liability for offences specified in international agreements), to the category of offences that fall within the universal jurisdiction, i.e. offenders are liable under the criminal law of the Republic of Lithuania regardless of their citizenship, their place of residence, the place of commission of the crime, or the punishability of the committed act under the laws of the place where the crime was committed.

54. Many other criminal acts, including those covered by article 162 of the CC (Child exploitation for pornographic purposes), article 307 (Deriving profit from another person's prostitution), article 308 (Engaging another person into prostitution), article 309 (Dealing in items of pornographic content), are subject to territorial (article 4) or active nationality (article 5) principles. Article 4 of the CC (Applicability of criminal law in respect of persons who commit criminal acts within the territory of the State of Lithuania or on board a ship or aircraft flying the flag or carrying distinctive symbols of the State of Lithuania) prescribes that persons who commit criminal acts in the territory of the State of Lithuania or on board a ship or aircraft flying the flag or carrying distinctive symbols of Lithuania shall be liable under this Code. The place of commission of a criminal act is the place in which the person acted or could have acted or had to act, or the place in which the consequences covered in the criminal law occurred. The place of commission of a criminal act by an accomplice is the place where the criminal act was committed or, if the accomplice operated elsewhere, the place where he carried out his activity. A single criminal act committed both within the territory of the State of Lithuania and abroad is considered as having been committed within the territory of the Republic of Lithuania if it was commenced or completed, or forestalled in the territory of Lithuania.

55. Article 5 of the CC (Criminal liability of citizens of the Republic of Lithuania and other permanent residents of Lithuania for offences committed abroad) provides that citizens of the Republic of Lithuania and other permanent residents of Lithuania shall be held liable for offences committed abroad under criminal laws of Lithuania provided that the committed act is recognized as an offence and is punishable under the criminal law of the place of commission of the crime and the CC. If the person who has committed an offence abroad is prosecuted in Lithuania and the offence carries different punishments in the two countries, the offender shall be liable for punishment under the laws of Lithuania without exceeding the maximum punishment applicable according to the criminal law of the country of commission of the offence. Thus, even if the Republic of Lithuania refuses, for whatever reasons, extradition of the person who has committed an offence in Lithuania to a foreign State, this person will nevertheless have to be prosecuted under the CC of the Republic of Lithuania.

56. It should be noted that Lithuania applies the legality principle, which means that a pre-trial investigation officer or prosecutor must start a pre-trial investigation for every criminal act (with certain exceptions regarding minor acts).

#### **Implementation of article 5**

57. Since the entry of the Optional Protocol into force, extradition for offences covered by the Optional Protocol was exercised only once.

58. On 26 January 2005, the Prosecutor General's Office received, through Interpol channels, a request of the competent authorities of Costa Rica to detain M.B.L., a national of Costa Rica, who was prosecuted by the Prosecutor's Office of the city of San José, for participating in an organized group engaged in cross-border trafficking in adopted children. International search for this person was launched on the basis of an international arrest warrant of 1 October 2004 issued by the Criminal Court of the First Judicial Circuit of San José.

59. M.B.L. was detained in Vilnius on 24 January 2005 and taken into police custody. On 26 January, a judge of the First District Court of Vilnius imposed on him a punishment of detention of one month. On 23 February 2005, the arrest was extended for one more month.

60. The detention of M.B.L. was reported to the Embassy of Costa Rica in Oslo, from which the Prosecutor General's Office received, through diplomatic channels on 2 March 2005, documents for the extradition of M.B.L.

61. On 15 March 2005, a prosecutor of the International Relations and Legal Assistance Division of the Prosecutor General's Office approached Vilnius Regional Court with a request to extradite M.B.L. to Costa Rica for prosecution.

62. Having examined the request, Vilnius Regional Court ruled, on 21 March 2005, that M.B.L. is to be extradited to Costa Rica,

and extended his detention for another month. The ruling was communicated to the Embassy of Costa Rica in Oslo; the time and conditions for taking over the extraditable person were negotiated and agreed upon. On 13 April 2005, the Costa Rican was passed over to authorized officers of Costa Rica at Vilnius Airport.

63. According to the data available to the Prosecutor General's Office, the organized group would buy children from poor families in Costa Rica and later sell them to wealthy people in Costa Rica or other countries who wished to adopt children. Children were sold by following the official adoption procedures.

### **Implementation of article 6**

64. There were no instances of international legal cooperation in relation to criminal activities covered by the Optional Protocol (except for the case of extradition described above).

### **Implementation of article 7**

65. Under article 72 of the CC (Seizure of property), property which was the instrument or means to commit the crime or which was acquired as a direct result of the criminal act shall be seized.

66. The court must seize:

Money or other valuable items given to the offender or his accomplice for the purpose of committing the criminal act

Money and other valuable items used to commit the criminal act

Money and other valuable items derived from the criminal act

67. Property transferred to other natural or legal persons shall be seized irrespective of whether these persons are prosecuted or not, if:

This property was given to them for the purpose of committing a criminal act

When accepting the property, they knew or should or might have known that this property, money or new valuable items purchased with this money have been derived from criminal activity

68. Property transferred to other natural or legal persons may be seized, irrespective of whether the person transferring it is being prosecuted or not, if that person should or could have known that this property might be used for committing a serious or very serious offence. Where the property to be seized is hidden, used up, owned by third parties or otherwise impossible to be seized, the court shall recover from the offender, his accomplices or other persons mentioned above the amount of money equivalent to the value of the property to be seized. The court ruling seizure must specify the items to be seized or the monetary value of the property to be seized.

69. Seizure of property is a penal sanction enforceable against both natural and legal persons in addition to the punishment imposed or even if no punishment has been imposed.

70. Pursuant to article 94 of the Code of Criminal Procedure of the Republic of Lithuania (hereinafter referred to as the CCP) (*Valstybės žinios* (Official Gazette) No. 37-1341, 2002), the court may rule, on the basis and in the procedure laid down in a relevant international agreement of the Republic of Lithuania and at the request of a foreign authority, that any items and valuables derived from criminal activity may be passed over, after the sentence comes into effect, to the foreign authority to be returned to their legitimate owners, unless the owners are not known or legitimate interests of other persons might be violated. If trade in the relevant items is prohibited, such items shall not be passed over to a foreign authority. It should also be noted that article 71 of the CCP provides that the Prosecutor General's Office of the Republic of Lithuania shall, at the request of the State which has issued a European arrest warrant, guarantee the seizure of items and documents relevant for the investigation of the criminal act as well as proceeds derived from criminal activity by the person with respect to whom the European arrest warrant has been issued, and the transfer of such items, documents or property to that State. Where such items must be seized or returned to their legitimate owners in accordance with laws of the Republic of Lithuania, the Prosecutor General's Office may transfer them on a temporary basis only, for as long as they are needed for criminal proceedings in the state which has issued the European arrest warrant.

71. The provision in article 7, paragraph (c), of the Optional Protocol is implemented by imposing a restriction of activity or liquidation of a legal person. It should be noted that certain laws also provide for administrative measures aimed at terminating the activities which are contrary to the law. For instance, article 18 of the Law of the Republic of Lithuania on Police Activities (*Valstybės žinios* (Official Gazette) No. 90-2777, 2000) gives the right to a police officer to temporarily restrict access to a particular territory or premises, to halt on-going works, or to restrict or suspend traffic, if there is a danger to the environment, public order, security of a person or the State. Article 52 of the Law of the Republic of Lithuania on the Provision of Information to the Public (*Valstybės žinios* (Official Gazette) No. 82-3254, 2006) provides that a court may suspend or terminate activities of a producer and/or disseminator of public information, except for broadcasters and/or re-broadcasters, if the producer and/or disseminator of public information disseminates, propagates or advertises, inter alia, pornography as well as propagates and/or advertises sexual services and sexual perversions. If laws prescribe that certain activity is subject to a licence (e.g. transport services, sale of alcohol, etc.), the licensing institution may suspend or withdraw such licence for a violation of licence regulations.

### **Implementation of article 8**

72. The CCP provides for a number of measures aimed at protecting the rights and interests both of victims of criminal acts and children during the criminal procedure. In general, a victim and a victim's representative have the right to give evidence; to file

applications; to challenge; to acquaint oneself with the case in the pre-trial and trial stages; to be present during the trial; to appeal against actions of a pre-trial investigation officer, prosecutor, pre-trial investigation officer or court; to appeal against a court's judgment or ruling; to give a closing speech (art. 28 of the CCP). Every person recognized as a victim has the right to demand that the offender be identified and punished justly, as well as claim for compensation for the damage done by the criminal act (art. 44 of the CCP). It should be noted that article 45 of the CCP provides that the judge, prosecutor or pre-trial investigation officer must inform the parties of the proceedings of their rights and ensure that they can exercise such rights.

73. The CCP also has certain specific provisions concerning the status of child victims and/or witnesses in the proceedings. Article 186 of the CCP provides that a witness or a victim under 18 years of age may be questioned by a pre-trial investigation judge, at a request of the child's representative, prosecutor or defence lawyer acting in the interests of the child. A witness or a victim under 18 years of age is normally questioned no more than once during the pre-trial investigation. The questioning may be video/audio-recorded. If the suspect or the suspect's representative is present at the questioning of the witness or victim under 18 years of age, the pre-trial investigation judge must ensure that such witness or victim is not under undue pressure. Witnesses and victims under 18 years of age are called to the hearing only in exceptional situations. A representative of a witness or victim under 18 years of age has the right to be present at their questioning. At the request of the parties of the proceedings or on the initiative of the pre-trial investigation officer or prosecutor or pre-trial investigation judge, a staff member of a State institution for the protection of the rights of the child or a psychologist may be invited to the questioning of a witness or victim under 18 years of age, to assist in the questioning taking account of his/her social and psychological maturity. It must also be noted that minors may be questioned in special child-questioning rooms (currently there are two child-questioning rooms). One of the measures laid down in the National Programme for 2005-2007 for the Prevention of Violence against Children and the Assistance to Children approved by Resolution No. 491 of the Government of the Republic of Lithuania of 4 May 2005 (*Valstybės žinios* (Official Gazette) No. 58-2021, 2005) is a further improvement of the mechanism of questioning of child witnesses and victims in the criminal procedure.

74. Article 280 of the CCP provides that a staff member of a State institution for the protection of the rights of the child or a psychologist must be called to the questioning of a witness under 18 years of age during the hearing, in order to assist in the questioning taking account of his/her social and psychological maturity. Where necessary, parents or other legal representatives of the child witness may also be called to the questioning. The staff member of a State institution for the protection of the rights of the child or the psychologist present at the questioning, as well as parents or other legal representatives of the child witness, may, with the permission of the chairperson of the hearing, ask the witness questions. A witness under 16 years of age must leave the hearing room immediately after the questioning, unless the court deems it necessary for him/her to stay. If there is a risk that the questioning in the hearing may cause mental trauma or have other grave consequences for a witness under 18 years of age, such witness shall not be called to the hearing; instead, his/her evidence given to the pre-trial investigation judge is read out.

75. Article 283 of the CCP provides that the victim shall be questioned in the hearing and his/her evidence shall be read out by complying with all rules applicable to the questioning of witnesses and to the reading of their evidence. A victim under 18 years of age must be questioned only in the presence of his/her representative. A victim of this age and his/her representative have the right, by a court order, to be present only for part of the hearing. If there is a risk that the questioning in the hearing may cause mental trauma or have other grave consequences for a victim under 18 years of age, such victim may be excluded from the questioning. In this case, evidence given by the victim to the pre-trial investigation judge must be read out loud.

76. Article 9 of the CCP allows in-camera hearing of cases, where the criminal act was committed by a person under 18 years of age, or for offences or misdemeanours against a freedom of sexual self-determination and privacy, also other cases, when efforts are made to prevent publication of information on a private life of the parties to the proceedings or where the witness or victim questioned has the right to anonymity.

77. Pursuant to article 199 of the CCP, a victim or witness shall have the right to anonymity, where all of the following conditions are met:

There is a real danger to life, health, liberty or property of the victim or witness or their family members or their close relatives

The victim's or witness's evidence plays a material role in the criminal proceedings

The victim or witness takes part in the proceedings for a serious or very serious offence

78. The specifics of questioning of a witness who has to be kept anonymous are laid down in article 282 of the CCP. Under this article, the court shall instruct the prosecutor to organize the appearance of the anonymous witness in the court in such a manner that his/her identity is not disclosed. The anonymous witness shall be questioned at an in-camera hearing with artificial acoustic and visual barriers preventing identification of the witness by other participants of the hearing. If it is impossible to create acoustic or visual barriers in the hearing room, the anonymous witness shall be questioned in a room other than the hearing room, not in the presence of other participants of the hearing. Before such questioning, other participants of the hearing may deliver to the chairperson of the hearing written questions they want to ask the witness. Evidence given by the witness questioned in this manner shall be entered by the chairperson of the hearing or one of the judges in the record of the hearing. The chairperson of the hearing or one of the judges shall read this evidence out loud during the hearing. Any other, repeated or additional, questions which other participants of the hearing want to ask the witness after the chairperson of the hearing or one of the judges has read out loud the evidence given by the witness shall be asked and answered in the same manner. In individual cases, where the appearance of the anonymous witness in court would endanger life, health or liberty of his/her own, his/her family members or close relatives, the witness may not necessarily be called to the hearing; instead, his/her evidence given to a pre-trial investigation judge in accordance with article 203 of the CCP shall be read out loud in the hearing. Where the above-explained conditions exist, a witness may be questioned using remote video and audio communication equipment, by creating artificial acoustic and visual barriers.

79. As far as the protection of the rights of the victim during criminal proceedings is concerned, it should be said that, pursuant to article 44 of the CCP, every person has a right to privacy of his/her own and his/her family's life, also a right to inviolability of

dwelling and confidentiality of correspondence, telephone conversations, telegraph messages and other communication. These rights may be restricted during criminal proceedings only in the cases and in the manner laid down in the CCP. Pursuant to article 177 of the CCP, information on the pre-trial investigation may not be made public. Such information may be made public before the hearing of the case in the court only with the permission of the prosecutor and only to the extent permitted. It is prohibited to make public information on child suspects and victims. The Law of the Republic of Lithuania on the Protection of Minors against Detrimental Effect of Public Information (*Valstybės žinios* (Official Gazette) No. 91-3890, 2002) provides that public information considered to cause detrimental effect to the development of a minor includes public information which makes public, by relating it to, inter alia, criminal acts or other violations of the law, personal data of a minor who is a victim of a criminal act or other violations of the law, on the basis of which his/her personal identity could be established. It is prohibited to make this information public.

80. The Law of the Republic of Lithuania on the Protection of Participants of the Criminal Procedure and Operational Activities and of Officers of Justice and Law Enforcement Institutions against Criminal Impact (*Valstybės žinios* (Official Gazette) No. 20-520, 1996) provides the possibility to grant protection to particularly vulnerable persons during the pre-trial investigation, during the hearing of the criminal case in court, and after completion of such a hearing. The Law regulates the granting of the following protection against criminal impact:

Physical protection of a person and his/her property

Temporary relocation of a person to a safe place

Establishment of a special treatment of personal data available in passport units and other official pools of information

Changing of a person's place of residence, work or school

Changing of a person's identification or biographic data

Performing plastic surgery, changing a person's appearance

Giving a weapon or special protective devices

81. The Law of the Republic of Lithuania on State-Guaranteed Legal Aid (*Valstybės žinios* (Official Gazette) No. 30-827, 2000; No 18-572, 2005) provides quite a number of cases when victims of criminal acts have the right to receive legal aid free of charge. In the manner prescribed in this law, a person has a right to primary (legal information, legal advice and preparation of legal documents to be submitted to state and municipal institutions) and secondary legal aid (preparation of legal documents, defence, representation in courts). Secondary legal aid is available to all victims who have insufficient income (the relevant income level is established by the Government of the Republic of Lithuania) or victims claiming a compensation for the damage done by an offence, including where the issue of damages is being dealt as a part of criminal proceedings.

82. It must be noted that the fundamental rights of the child are protected pursuant to the Convention on the Rights of the Child and the Law of the Republic of Lithuania on the Fundamentals of Protection of the Rights of the Child. The said law sets forth that parents and other legal representatives of the child, State and municipal institutions and non-governmental organizations, and other natural and legal persons must always and anywhere give priority to the legitimate interests of the child. A child who has suffered from a criminal act, violence or other mistreatment must be given the necessary assistance to help the child to recover from the physical or psychological trauma experienced and reintegrate him/her into the social environment. A natural or legal person who comes to know that a child is in need of assistance has a duty to report this to the police or an institution in charge of the protection of the rights of the child or any other competent institution.

83. It should be noted that the theory of criminal law and criminal procedure defines the rules of behaviour in situations where the true age of the child is not known. The principal rule is as follows: if the age of the child is not known, the minimum possible age is presumed, e.g. if the child looks to be 16 to 18 years of age, it is presumed that the child is 16.

84. Article 1182 of the Code of Administrative Offences (hereinafter referred to as the CAO) (*Valstybės žinios* (Official Gazette) No. 83-3040, 2005) imposes administrative liability for engaging in prostitution or for using prostitution services for a payment, with the exception that the person engaged in prostitution shall not be subject to administrative liability if he/she has been engaged into prostitution as a minor and/or has been a victim of trafficking in human beings and is recognised as a victim in criminal proceedings.

## **Implementation of article 9**

85. Laws, administrative measures, social policies and programmes to prevent the offences referred to in the Optional Protocol and to protect victims.

## **Improvement of the legal base**

86. With a view to properly implementing the provisions of the Optional Protocol, the two criminal laws, the CC and the CCP were improved. The CC was amended in 2006. The Law Amending Articles 149, 150, 162, 260, 266, 307 and 309 of the Criminal Code of the Republic of Lithuania and Amending and Supplementing the Annex of the Code and Supplementing the Code with Article 151 (*Valstybės žinios* (Official Gazette) No. 77-2961, 2006), passed by the Seimas of the Republic of Lithuania, has amended article 162 of the CC (Child exploitation for pornographic purposes), and article 309 (Dealing in items of pornographic content). The amendments have tightened liability for those offences. The maximum punishment in article 162, paragraph 1, of the CC was raised to imprisonment for a term of up to five years. A new paragraph 3 has been added to article 309 of the CC, which singles out and tightens liability for the production, possession or dissemination of large quantities of pornographic items with an image of a young child. The sanction part of this new paragraph imposes a single possible punishment - imprisonment of up to five years. The Law

Amending Articles 120, 121 and 126 of the Code of Criminal Procedure of the Republic of Lithuania and Supplementing the Code with Article 132 (*Valstybės žinios* (Official Gazette) No. 171-6307, 2004) provides for the possibility to oblige the suspect to live separately from the victim, if there are reasons to believe that the suspect living together with the victim would try to illegally exert pressure on the victim or commit new criminal acts against the victim or against other persons living together. This obligation is one of the measures of protection of victims of violence (including children).

87. In implementing the Law of the Republic of Lithuania on the Protection of Minors against Detrimental Effect of Public Information, the Government passed a resolution (Resolution No. 681 of 2 June 2004, On the procedure for publication and dissemination of information having detrimental effect on the development of minors, attributable to the category of public information the publication and dissemination whereof is restricted, and on the approval of the system of marking of information having detrimental effect on the development of minors, and on audio and video media (*Valstybės žinios* (Official Gazette) No. 89-3281, 2004)), which defines, inter alia, the competence of the Ethics Commission of Journalists and Publishers to classify certain mass media to the category to pornographic.

88. On 11 July 2006, the Law of the Republic of Lithuania on the Provision of Information to the Public was amended (replaced with a new wording), to define the concept of information of a pornographic nature, to impose restrictions on publication and dissemination of information of a pornographic nature, to set principles for the protection of minors against the detrimental effects of information on their development, to define the concept of advertising and the requirements for its contents, to define the competence of the Radio and Television Commission of Lithuania and the Inspector of Journalist Ethics to monitor compliance with the Law of the Republic of Lithuania on the Protection of Minors against Detrimental Effect of Public Information, etc. This is expected to ensure better control of publication and dissemination of such information, as from now on this function is a responsibility of a State officer (under the earlier version of the Law on the Provision of Information to the Public, this was a responsibility of the non-governmental Ethics Commission of Journalists and Publishers). It should be noted that article 247 of the CAO authorizes the Inspector of Journalist Ethics to impose administrative liability on mass media for violations of the requirements of publication and dissemination of information having detrimental effect on the development of minors the publication and dissemination whereof is restricted or prohibited (under article 214 of the CAO).

89. In identifying what statutory measures are needed to ensure implementation of the Optional Protocol, a conclusion was reached that article 56 of the Law of the Republic of Lithuania on Fundamentals of Protection of the Rights of the Child is particularly important for the protection of the rights of the child; it provides that where the parents or other legal representatives of the child abuse, by committing acts of violence or otherwise causing danger to the child, their parental power and this abuse threatens the child's health or life, a State child protection institution (or a State child protection institution together with the police) shall immediately take the child away from the parents or other legal representatives of the child and place the child under guardianship/care in the manner provided in the CvC. Having taken the child into custody, the State child protection institution must immediately notify the parents and other legal representatives of the child. To ensure that this provision is implemented properly, a possibility to introduce additional regulation of taking a child away from the family is being considered, in addition to that covered by article 56 of the Law on Fundamentals of Protection of the Rights of the Child.

90. To prevent illegal transportation of minors abroad with an intention to sell them, and to reduce the number of victims of trafficking in human beings, methodological guidelines for officers of the State Border Guard Service, "On the early prevention of illegal transportation of minors abroad with an intention of sale", of 28 December 2005, were drafted and approved by Order No. 4-711 of the Commander of the State Border Guard Service under the Ministry of the Interior.

## **Programmes of the Government of the Republic of Lithuania**

91. The Government of Lithuania has approved, by Resolution No 558 of 19 May 2005 (*Valstybės žinios* (Official Gazette) No. 65-2333, 2005), the Programme for the Prevention and Control of Trafficking in Human Beings for 2005-2008 aimed at addressing, in an integrated, coherent and systematic manner and on a national scale, the problems related to trafficking in human beings and to prevention and control of prostitution.

92. The programme is targeted at a number of tasks, such as: developing and implementing a set of early-prevention measures against bringing new persons into trafficking in human beings and prostitution; develop and implement a set of measures aimed at minimising the demand for prostitution; developing a system of social assistance to victims of trafficking in human beings, with particular emphasis on the protection of such persons and social aspects, including their reintegration into society; furthering the cooperation between the State (municipalities), non-governmental and international organizations in the combat against trafficking in human beings; strengthening specialized police units of Lithuania responsible for the fight against trafficking in human beings, etc.

93. As part of implementing this programme, several laws were passed in 2005 to impose criminal liability on legal persons for trafficking in human beings and for administrative liability of persons who use prostitution services. A new specialized division for the fight against trafficking in human beings was established within the Lithuanian Criminal Police Bureau. Other measures include the strengthening of specialized units for the protection of victims and witnesses against criminal interference, and support for projects undertaken by State institutions and non-governmental organizations for social assistance to victims of trafficking in human beings, their protection and re-integration into society. To raise public awareness of the dangers underlying trafficking in human beings and prostitution, information campaigns on the fight against trafficking in human beings are being organized; in 2006, a video clip was produced, aimed at prevention of trafficking in human beings and prostitution. Training sessions are organized for police and prosecution officers, social workers, social educators and class tutors, to improve their skills in the field of prevention of trafficking in human beings and prostitution and to enhance institutional capacity to respond adequately to trafficking-related problems. To facilitate the safe and prompt return of victims of trafficking in human beings from foreign countries, a repatriation system is being developed and consular and other necessary assistance is being given to people affected by trafficking in human beings in foreign countries who decide to return to the Republic of Lithuania. To ensure prompt provision of targeted aid to those affected by trafficking in human beings, an information network is being set up for victims of trafficking in human beings and prostitution who are advised to address

the relevant bodies for social, legal, psychological and medical aid or protection. To improve the application of preventive and rehabilitation measures for child victims of trafficking in human beings, a special rehabilitation programme is being developed to assist them.

94. The Government of the Republic of Lithuania has approved, by Resolution No. 491 of 4 May 2005, the National Programme for the Prevention of Violence against and Assistance to Children for 2005-2007 aimed at defining integrated and coordinated actions, including measures (of prevention, intervention, and/or post-intervention) for the elimination of any forms of violence.

95. The objectives of this programme include the raising of public awareness on the prevention of violence against children, improvement of qualifications of specialists working with children affected by violence, improvement of the technical base and of the mechanism of interviewing children affected by violence, provision of rehabilitation and reintegration assistance to children affected by violence.

96. To develop children's capacity to protect themselves against offences and to create a safer environment for them, special information publications are being published for children, and the Police Department is implementing a prevention project "Safe and sound in school" in schools of the country. To ensure that police officers have adequate skills to deal with affected children, they are being provided with methodological guidance, special knowledge and training to improve their qualifications. To improve the mechanism of questioning children so that children do not experience any new traumas during judicial proceedings, there are plans to equip special questioning rooms for children at higher-level police units.

97. In 2005-2006, as part of implementing the above-mentioned programme, the Ministry of Social Security and Labour organized public procurement of short-term and long-term integrated services for children affected by violence. In addition, the Ministry of Social Security and Labour and the State Child Rights Protection and Adoption Service together with social partners (non-governmental organizations) regularly organize information campaigns under the title "May - a Month of No Violence against Children". This increasingly traditional campaign has a function of raising public awareness of the problem of violence against children. The campaign seeks to develop in society a feeling of responsibility for every child and intolerance for violators, as well as intolerance for mutual disrespect and bullying among children, to draw the society's attention to the problem of bullying in schools, to promote communication among children without anger and bullying, and to educate parents of disobedient children on alternative child-raising methods. As part of such campaigns, discussions on specific topics were organized through the mass media and in schools and child care homes, and handouts with information on such issues as prevention of violence and aid to affected children were produced and disseminated among children, parents and specialists working with children. The campaigns aimed at drawing attention to violence among children and to behavioural patterns picked up by children by watching adult-to-adult communication or experienced from their family members.

98. In 2005, as part of implementing the National Programme for the Prevention of Violence against and Assistance to Children for 2005-2007, the Ministry of Education and Science called on educational units of the county governor and municipal administrations to have schools designate workers to be responsible for the prevention of violence and for management of conflicts and emergency situations. The same year, the Ministry published a methodological tool "Prevention of violence in schools" and distributed it to schools. In 2006, the Ministry of Education and Science organized workshops for school teams on the prevention of bullying and violence in schools. The workshops were organized in different towns so that they could be attended by the largest possible number of school workers. In the end of 2006, the Ministry completed the preparation of information publications for children and parents about violent practices and their prevention, and a methodological tool for school administrations, teachers, social educators and psychologists with information about various forms of violence in schools, methods of identifying and investigating the problem of violence, importance of school-wide policy for the prevention of violence, and the concept of a safe school.

### **Cooperation among the police, other public authorities and social partners**

99. Seeking to ensure stronger prevention of violence against children and to improve cooperation between police and other relevant authorities when there is a need to ensure safety of children and enforce their rights, the Police Commissioner General signed, on 3 October 2002, an instruction for the intensification of prevention of violence against children.

100. Police bodies have developed prevention projects aimed at removing the causes of trafficking in human beings and prostitution and, together with social partners (child rights protection units, educational and health-care institutions, crises centres for women, non-governmental and religious organizations), participate in the implementation of such projects.

101. Police officers regularly hold discussions with administrations of educational establishments about negative practices in schools, problems of interaction among children and groups of children, other negative factors inciting violence against children; collect and analyse information on recorded cases of violence against children; cooperate with child rights protection services, teachers, medical staff and non-governmental organisations in developing, taking account of the results of such analysis, joint measures of prevention of violence against children and targeted prevention and socialisation programmes. Police bodies are actively engaged in preventive activities, for instance, a Child and Mother Assistance Centre has been established and functions under the auspices of the Police Division of the District of Panevėžys.

102. They also implement joint projects aimed at promoting school attendance, reducing any negative impact of the environment, and advocating the provision of social, psychological or other forms of assistance to children (families), since children of at-risk groups are the most likely to become victims of trafficking in human beings. The Police Department and local police bodies also make efforts to involve local communities in the preventive interaction with socially neglected children and their parents.

### **Activity of the Ombudsman for the Protection of the Rights of the Child**

103. Having examined the data collected by the Office of the Ombudsman for the Protection of the Rights of the Child on the situation

of sale of children, child prostitution and pornography in Lithuania, the Ombudsman for the Protection of the Rights of the Child proposed in the 2005 activity report of the Office of Ombudsman for the Protection of the Rights of the Child, presented to the Seimas of the Republic of Lithuania, to conduct a thorough analysis of prevalence of child prostitution and child exploitation for pornography, to intensify preventive action in this field, and to strengthen protection of minors, especially victims, in the criminal proceedings.

104. It should be noted that the problem of protection of children in criminal proceedings was started to be tackled in cooperation with law enforcement institutions (starting with discussions on such issues as violations of the rights and other legitimate interest of the child during criminal proceedings, committed by law enforcement officers; training; implementation of measures under different programmes, such as installation of questioning rooms, directions of training, etc.). The Office of the Ombudsman for the Protection of the Rights of the Child has initiated an investigation into the issue of sale of children, child prostitution and child pornography. As part of this investigation, the Office will collect data from different institutions on the prevalence of this criminal activity, on child victims, on prevention, intervention and post-intervention measures and funds allocated to address this problem; it will also collect their opinions about the extent of the problem of sale of children, child prostitution and child pornography, and their proposals for the best solutions to this problem and measures to be taken, etc. Further, an analysis of the legal basis will be carried out. Conclusions and proposals to be formulated following this analysis and the examination of its results will be submitted to the Seimas of the Republic of Lithuania and the Government. Public discussions will be initiated on the issue of sale of children, child prostitution and child pornography, to draw society's attention to this problem and to ensure a more active participation of the society in its solution.

105. In 2005, the Ombudsman for the Protection of the Rights of the Child started to tackle the problems related to the activities of Internet cafés and lounges, the safety of children in such cafés and lounges, and protection of children against negative information and detrimental effects of the environment. On the initiative of the Ombudsman for the Protection of the Rights of the Child, a working group of representatives of State and municipal institutions, health-care and child rights protection staff and representatives of Internet cafés and lounges was formed; the working group insisted that it was necessary to regulate activities of Internet cafés, to limit child attendance, to install Internet filters, to start marking computer games, to define liability of owners and staff of Internet cafés and websites for the damage caused to children, and to ensure that such institutions employ staff with appropriate qualifications.

106. The working group also stressed that particular attention must be paid to communicating with children and families, in order to explain them the potential damage and dangers posed by the Internet and computer games. The inter-institutional working group set up on the initiative of the Ombudsman for the Protection of the Rights of the Child has drafted and submitted proposals to the Government regarding the necessary amendments to legal acts, proposing to define the criteria of evaluation and classification of computer games by their detrimental effect on the development of the child; to mark appropriately computer games which contain information having detrimental effect on the development of the child; to install filters in the hardware, in order to block access to prohibited or restricted public information; to impose requirements for the qualifications of service staff, in order to ensure supervision of minors using public internet access and to control the content of public information retrieved. In response to a request of the Ombudsman for the Protection of the Rights of the Child, a working group set up by an order of the Director of the State Environmental Health Centre has drafted a hygiene standard on the safety of activities of Internet cafés for health.

107. Another working group formed on the initiative of the Ombudsman for the Protection of the Rights of the Child has started to tackle the issue of restricting, in legal acts, children's presence in public places (discos, cafés, events, etc.) after dark.

## **Education and training**

### **Educating children**

108. One of the goals of education as defined in the Law of the Republic of Lithuania on Education (*Valstybės žinios* (Official Gazette) No 23-593, 1991; No. 63-2853, 2003) is to develop a young person's values enabling him or her to become an honest, knowledge-seeking, independent, responsible and patriotically-minded person; to cultivate the communication skills important in contemporary life; to assist in internalizing the culture of information typical of the knowledge society, as well as social competence and the skills to shape life independently.

109. The State Strategy of Education for 2003-2012 approved by Resolution No. IX-1700 of the Seimas of the Republic of Lithuania of 4 July 2003 (*Valstybės žinios* (Official Gazette) No 7113216, 2003) provides that given the current challenges facing the society and the priorities defined in the Long-term Development Strategy of the State concerning knowledge society and safe society and competitive economy, education has a mission of helping a person to understand the modern world, acquire cultural and social competence and be an independent, active and responsible person willing and able to learn continually and build his/her own and the community's life. The Strategy contains measures aimed at implementing targeted programmes of supplementary pedagogical and social work with problematic children, including:

General programmes and education standards to define capacities, competencies and values related to the promotion of healthy lifestyles and the concept of personal safety. Schools implement programmes of preparation for family life and sexual education, cultivation of life skills, methodological recommendations for preparation of children and youth for family life. These programmes and methodological recommendations are aimed at developing a mature and moral personality capable of building mature interpersonal relations and resisting the negative impact of the environment.

The Programme of Cultivation of Life Skills aims at helping children to acquire personal and social skills needed for taking constructive and safe decisions. The programme seeks to prepare children for life outside school and for adulthood in a changing society, by helping them to build skills of solving problems, taking decisions, thinking creatively and critically, communicating, self-actualizing, overcoming stress, and resisting.

110. The above-mentioned programmes and recommendations are included in the curriculum and are applied in extracurricular and

after-school activities. National and municipal pedagogical training institutions regularly organize training courses for teachers, to train them to adapt these programmes and materials for practical educational activities.

111. Schools employ social educators to strengthen preventive work in schools with children, parents and child rights institutions and to ensure safety and social guarantees. From 2004 pedagogical-psychological services are being developed. As part of implementing in schools early prevention programmes of trafficking in human beings and strengthening interinstitutional cooperation, the Minister of Education and Science has approved, by Order No. ISAK-1699 of 28 November 2003 (*Valstybės žinios* (Official Gazette) No. 13-389, 2004), the Preventive Awareness-Raising Programme on Trafficking in Human Beings and Prostitution Issues for 2003-2004 aimed at raising children's and youth's awareness on the dangers posed by the business of prostitution and at organizing lectures in educational establishments on dangers related to trafficking in human beings and prostitution, on early sexual life, violence among adolescents, sexually transmitted diseases, the harm of alcohol and drugs, also dangers underlying the tempting "get-rich-quick" offers in the West. In 2003, the Ministry, in cooperation with the Nordic Council of Ministers Office in Lithuania, prepared and published methodological recommendations "Trafficking in women and children: methodological guidance for teachers. preventive actions", for social educators, class tutors and teachers.

112. In 2006, as part of implementing the Programme of Prevention and Control of Trafficking in Human Beings for 2005-2008, the Ministry of Education and Science published leaflets on the dangers of trafficking in human beings and on institutions providing assistance, and distributed these leaflets to schools throughout the country. In cooperation with the International Organization for Migration, the Ministry has organized a number of seminars for teachers on the issue of prevention of trafficking in human beings and prostitution in educational establishments.

113. The Minister of Education and Science approved, by Order No. ISAK-424 of 6 March 2006 (*Valstybės žinios* (Official Gazette) No 33-1196, 2006), the Programme for Educating Children in General Schools on Public Awareness-Raising and Human Rights aimed at cultivating children's information literacy: to promote their critical thinking and ability to judge credibility of information and use it; to teach them to critically look at and analyse information in mass media and use the Internet and other sources of information, advertising and entertainment; to foster schoolchildren's consciousness and civil and cultural maturity as well as social skills. Information literacy is seen as a schoolchild's preparedness and ability to think critically and judge credibility of public information. The implementation of this Programme will contribute to the implementation of the Optional Protocol.

## **Training specialists**

114. As part of implementing the National Programme against Commercial Sexual Exploitation and Sexual Abuse of Children approved by Resolution No. 29 of 11 January 2000 of the Government of the Republic of Lithuania (*Valstybės žinios* (Official Gazette) No 5-144, 2000), the Ministry of Social Security and Labour commissioned a sociological study for the purpose of assessing the extent and status of sexual violence against children. The study inquired into the respondents' attitude towards all forms of violence: emotional, physical and sexual. The study has shown that up to 10 per cent of Lithuanian children (mostly aged 13-16) have suffered sexual abuse. According to the findings of the study, most children recognize that commercial sexual exploitation and sexual abuse is a particularly painful problem and suggest dealing with this problem by repressive means, i.e. by a more active prosecution and heavy sanctions.

115. The study also revealed a rather sceptical attitude of the public towards the competence and efficiency of public institutions and officials fighting against sexual abuse. Seeking to improve qualifications of staff in these institutions and to enhance the efficiency of their fight against sexual abuse as well to change public attitude towards their activities (and as part of implementing the National Programme against Commercial Sexual Exploitation and Sexual Abuse of Children), the Ministry of Social Security and Labour has commissioned the preparation and publication of methodological recommendations for specialists working with children who have suffered sexual abuse: a general basic training and specialized training programme, and specialized training programmes for police officers, prosecutors, judges, social educators, teachers, personal health-care staff, social workers, psychologists and psychotherapists. Relevant specialists were trained under these programmes.

116. As part of the National Programme against Commercial Sexual Exploitation and Sexual Abuse of Children, the Ministry of Education and Science has organized a number of seminars on this issue for teachers, and has developed the following methodological tools: an information sheet for parents and teachers, "Sexual abuse against children"; a methodological tool for municipal pedagogical-psychological services and psychologists of educational establishments, social workers and social educators, "How to assist children and adolescents who have suffered a sexual injury"; an information sheet for children on the Convention on the Rights of the Child, its implementation, children's rights and duties; an information sheet for teachers and social educators on the Convention on the Rights of the Child, its implementation, children's rights and duties.

117. To prevent the illegal transportation of minors abroad with an intention to sell them and to reduce the number of victims of trafficking in human beings, methodological guidelines for officers of the State Border Guard Service, "On the early prevention of illegal transportation of minors abroad with an intention of sale", were drafted and approved by Order No 4-711 of the Commander of the State Border Guard Service of 28 December 2005.

118. Regular activities include the training of police officers, joint (with non-governmental organizations) preventive projects and the following educational activity: seminars for police officers on working with children who have suffered violence and sexual abuse; assistance to law-enforcement officers who question children victimised by sexual abuse; publication of methodological guidance for police officers. In 2005, legal and psychological recommendations for pre-trial investigation officers working with children were developed. Relevant authorities cooperate with the International Organisation for Migration and the Institute of Social Studies. Lithuanian Police Training Centre together with the Vilnius Office of the International Organisation for Migration annually organize a training course "Trafficking in human beings" for pre-trial investigators and officers of prevention units. In 2005, the International Organization for Migration and the Institute of Social Studies developed and published a practical guide for police officers "Activities of law enforcement institutions when dealing with trafficking in human beings". In 2006, the International Organisation for Migration

published a book, *Trafficking in Human Beings: a Manual for Police Officers*.

119. By its Resolution No. 600 of 19 May 2004 (*Valstybės žinios* (Official Gazette) No. 8313008, 2004), the Government approved a Juvenile Justice Programme for 2004–2008. Among the programme's goals is the setting of requirements for specialised officers and staff, the creation of their qualifications-building system and the organisation of continual training.

120. As part of implementing this programme, the Ministry of Justice organized a specialized training course for juvenile and family judges. In 2005, a one-week training programme was developed for judges dealing with juvenile and family cases. Following approval by the Commission for the Coordination of Training for Judges under the Council of Courts, this programme was endorsed by Resolution No. 13P-377 of 9 September 2005 of the Council of Courts and approved by Order No. 1R-306 of 27 September 2005 of the Minister of Justice. As part of this programme, the Ministry of Justice organized four seminars in 2005 and two seminars in 2006, with 152 attendees. In 2007, four such seminars are planned, for about 100 judges dealing with juvenile and family cases, and for other judges as well. Under this programme, junior officers of the Juvenile Interrogation Isolator - Correctional Facility (Kaunas) were trained and improved their qualifications.

121. In implementing the Juvenile Justice Programme for 2004–2008, the Ministry of Education and Science has drafted the Law of the Republic of Lithuania on the Minimum and Medium Juvenile Surveillance, which has the purpose of setting up and regulating a system of minimum and medium surveillance of juveniles in Lithuania. The draft law is now with the Seimas of the Republic of Lithuania. The Ministry of Education and Science will develop a Social Skills Cultivation Programme for Children.

122. The Juvenile Justice Programme for 2004–2008 is being implemented in cooperation with international organizations. The United Nations Development Programme has initiated an assistance project for the setting up an effective juvenile justice system in Lithuania, aimed at creating a coherent and continual training system for the staff of institutions dealing with juvenile offenders. On 21 November 2005, the Ministry of Justice, the Ministry of Education and Science, the Crime Prevention Centre and the United Nations Development Programme signed an agreement on the project "Facilitation of the delivery of an effective juvenile justice system in Lithuania". The goal of this project is to develop a coherent and continual training programme, to develop and implement a distance-learning programme, and to train personnel. Targeted beneficiaries of the proposed project activities are the staff of institutions participating in the Juvenile Justice Programme, i.e. judges, prosecutors, police officers, probation officers, social educators, psychologists, preventive staff of the Juvenile Interrogation Isolator - Correctional Facility (Kaunas), etc.

123. The training programme underway will consist of two separate modules, for general and specialized skills and knowledge to be conveyed to the staff and officers of participating institutions. The general training module is designed to help the target group to acquire the required skills, i.e. to obtain information and master techniques of working with children and adolescents of risk groups. The specialized training module is designed for satisfying the needs of three separate target groups: institutions which provide services directly, teachers and social workers, and judges and prosecutors. The goal of this module is to strengthen the capacity of satisfying special needs of juvenile offenders.

124. The Centre for Crime Prevention in Lithuania, as the implementing authority of this project, is currently organizing training courses for the staff working with juvenile offenders and children of risk groups, as well as for a group of judges. The training will continue until February 2007. Those who have successfully completed the course will be issued a certificate on the completion of the course. Those who have successfully completed the distance-learning programme started in juvenile justice institutions in 2007 will be offered to act as distance-learning facilitators.

### **Psychological rehabilitation of victims**

125. The Principles of Organizing Psychiatric and Psychotherapeutic Services for Children and Adolescents approved by Order No. 730 of the Minister of Health of 14 December 2000 (*Valstybės žinios* (Official Gazette) No. 109-3489, 2000) define the concept of children's mental health care as psychiatric, psychotherapeutic, psychological consulting and psychosocial rehabilitation services for children, adolescents and their parents (guardians/parents' representatives), and also define the concept of psychological consulting (as assistance to children and their parents). It is stated therein that the goals of the treatment shall be implemented through teamwork, and the team shall consist of a children's and adolescents' mental therapist, medical psychologist, social worker, and mental-health nurse. It is provided that children and adolescents shall be given consulting services and treatment separately from adults, in special premises with therapeutic environment adapted to the specifics of the child's development, and that one hour shall be allowed for one single service of the children's and adolescents' mental health specialist. Moreover, according to the definition of primary mental health care services for children and adolescents, a separate room shall be reserved in the mental health centre for a children's and adolescents' mental therapist and medical psychologist, and a separate, specially equipped room for working with a child and family. The General Requirements for the Provision of Secondary Psychiatric and Psychotherapeutic Services to Children and Adolescents approved by the said Order of the Minister of Health require that individual and group psychotherapeutic services be provided by a doctor-psychologist or a psychologist-psychotherapist.

126. Practical assistance to children affected by violence, i.e. social work with the family and psychological help to the child, is organized by municipalities. Psychological help is usually given to urban children, whereas social work with the family is more common in rural areas (as well as ambulatory social and other services to a child).

### **Right to claim damages**

127. Every person who has suffered from criminal activity has a right to claim financial and moral damages from the perpetrator or other persons bearing responsibility for the perpetrator's acts (art. 44 of the CCP provides that every person recognized as a victim has the right to demand that the offender be identified and punished fairly and claim a compensation for the damage done by the criminal act). The damage shall be compensated in the manner laid down in the CC and the Code of Civil Procedure of the Republic of Lithuania (*Valstybės žinios* (Official Gazette) No. 36-1340, 2002). The injured person may also bring a civil action in a criminal

proceeding; in this case, the civil action shall be dealt with as part of the criminal proceedings. Persons who have suffered from a criminal activity and claim damages in a court are exempt from the stamp duty. Moreover, in certain cases the CCP provides for a possibility to have the damages awarded as part of criminal proceedings without bringing a civil action. An important guarantee of the payment of damages is provided for in article 118 of the CCP, according to which the damages may be paid, in certain cases and in the manner laid down in laws, from public funds allocated for this purpose, where the defendant or other persons bearing financial liability for actions committed by the defendant do not have resources for the payment of damages. It should be noted that the Law of the Republic of Lithuania on the Compensation for Damage Done by Crimes (*Valstybės žinios* (Official Gazette) No. 85-3140, 2005) provides for the cases when and the manner in which a victim of a violent crime (certain cases of trafficking in human beings are covered by the definition of a violent crime) shall be entitled to a compensation, including an advance payment, from the Crime Victims Fund.

## **Prohibition to produce and disseminate materials advertising crimes covered in the Optional Protocol**

128. Article 39(1) of the Law of the Republic of Lithuania on the Provision of Information to the Public of 11 July 2006 requires that advertising not prejudice respect for human dignity. This means that it is illegal in the Republic of Lithuania to advertise crimes covered in the Optional Protocol. Moreover, article 2(38) of this law defines information of pornographic nature; article 13(1)(5) provides that it shall be prohibited to use photographs and audio and video recordings of children in the information of erotic, pornographic and violent nature; and article 19(1)(4) attributes information in the media which disseminates, propagates or advertises pornography as well as propagates and/or advertises sexual services and sexual perversions to the category of information the publishing whereof is prohibited. Article 19(4) of the said law provides that the procedure for disseminating public information of erotic, pornographic or violent nature shall be laid down by the Government. Article 50(1)(6) of the law provides that the Inspector of Journalist Ethics acting in compliance with the conclusions of experts, shall ascribe press publications, audiovisual works, radio and television programmes or broadcasts, the information society media and other media and/or their contents to the categories of erotic, pornographic and/or violent character, and inform the State Tax Inspectorate under the Ministry of Finance about press publications of erotic and/or violent character; article 50(5) of the law provides that a group of experts shall operate under the Inspector of Journalist Ethics, presenting conclusions with respect to ascription of press publications, audiovisual works, radio and television programmes or broadcasts, websites or other media and/or their contents to the categories of erotic, pornographic and/or violent character; the Inspector of Journalist Ethics shall approve the composition of this group of experts; experts shall be responsible for the fairness of their conclusions; the group of experts shall work in accordance with the regulations to be approved by the Inspector of Journalist Ethics, and their activities shall be financed with the funds of the state budget of the Republic of Lithuania.

129. Furthermore, other legal acts of the Republic of Lithuania provide for additional safeguards to block access for minors (children) to information that might be treated as information advertising crimes covered in the Optional Protocol. Article 7(4) of the Law of the Republic of Lithuania on Advertising (*Valstybės žinios* (Official Gazette) No. 64-1937, 2000) prohibits showing, without sound reasons, children in situations which pose danger to their health and life. Article 39(3) of the Law on the Provision of Information to the Public requires that advertising does not have detrimental effect on the physical, mental or moral development of minors and shall therefore comply with certain quality-related requirements. Article 17 of the said law sets forth general principles of protection of minors from detrimental information. Producers and/or disseminators of public information must ensure in accordance with the procedure established by the law that minors are protected from public information which might have a detrimental effect on their physical, mental or moral development, in particular public information that involves pornography and/or violence or disseminates information encouraging addictions. It also provides that the criteria for ascribing public information to information which has a detrimental effect on the physical, mental or moral development of minors shall be defined in the Republic of Lithuania Law on the Protection of Minors against Detrimental Effect of Public Information, whereas the procedure for controlling information not to be published and for publishing restricted public information shall be established by the Government of the Republic of Lithuania.

130. Article 4 of the Law on the Protection of Minors against Detrimental Effect of Public Information provides that, inter alia, public information of violent and erotic nature shall be deemed detrimental to physical, mental or moral development of minors; the making available to the public and/or dissemination of such information may be prohibited or restricted; it shall be prohibited to make available to the public or disseminate public information, which may seriously impair the physical, mental or moral development of minors, particularly the portrayal of pornography and/or gratuitous violence, with certain exceptions (as defined in article 7 of this law: such information may be made available to the public only in places, which are inaccessible to minors, and/or during such times when minors would not be able to access it. Articles 48(1)(6) and 50(1)(4) of the Law of the Republic of Lithuania on the Provision of Information to the Public authorize the Radio and Television Commission of Lithuania and the Inspector of Journalist Ethics, respectively, to monitor the implementation of the provisions of the Law on the Protection of Minors against Detrimental Effect of Public Information. As already mentioned, to implement the Law of the Republic of Lithuania on the Protection of Minors against Detrimental Effect of Public Information, the Government of the Republic of Lithuania has passed Resolution No. 681 of 2 June 2004, to approve the procedure laying down the requirements for making available to the public and disseminating information, which has detrimental effect on the physical, mental or moral development of minors and which is attributable to the category of public information the publication and dissemination whereof is restricted, and the requirements for the marking of information having detrimental effect on the development of minors and for the use of audio and video media; such requirements are mandatory in making available to the public and disseminating information detrimental to the development of minors.

## **Implementation of article 10**

131. In the context of article 10 of the Optional Protocol, the Republic of Lithuania cooperates internationally and regionally through child rights protection arrangements. The cooperation with the Committee on the Rights of the Child and with the Special Rapporteur on the sale of children, child prostitution and child pornography is seen by Lithuania as an opportunity to have the efficiency of its national policies tested and to make use of the experience of the international community in the fight against exploitation of children for prostitution and pornographic purposes.

132. The 2006 conclusions of the Committee on the Rights of the Child concerning the second regular report of the Government of the Republic of Lithuania on the implementation of the United Nations Convention on the Rights of the Child (CRC/C/LTU/CO/2) give recommendations related to the issue of sale of children.

133. In support of the United Nations system of human rights protection special procedures, the Republic of Lithuania provided information for annual reports by Mr. Juan Miguel Petit, the Special Rapporteur on the sale of children, child prostitution and child pornography: in 2003, information about legal consequences of the sale of children, child prostitution and child pornography, particularly about the criminalisation of child victims and the current national policy as well as the development of legal regulation of this issue; in 2004, information about prevention of sexual exploitation of children, and in 2006, information about child pornography on the Internet.

134. Lithuania takes an active part in developing regional cooperation on the issue of the fight against trafficking in human beings, especially children. Representatives of Lithuania have made an important contribution to the drafting of the Council of Europe Convention on Action against Trafficking in Human Beings. Currently, the country is making preparations for the ratification of the Convention.

135. Activities of the Organization for Security and Cooperation in Europe (OSCE) in the field of trafficking in human beings are defined in the Action Plan to Combat Trafficking in Human Beings adopted by the Ministerial Council in 2003 as supplemented by the Addendum Addressing the Special Needs of Child Victims of Trafficking for Protection and Assistance (PC.DEC/557/Rev.1, 7 July 2005). This addendum gives recommendations for OSCE participating States on the prevention of trafficking in children, investigation of offences, and assistance and support to child victims.

136. Lithuania actively participates in the activities of the Council of the Baltic Sea States (CBSS) in relation to assistance to children. A working group, Children of Risk Groups, was formed to define, support and develop cooperation with other States of the region and partner organizations on issues related to children of risk groups: sexually exploited children, separated and sold children, children in care institutions, street children, criminal children, and children leading a life harmful to themselves. In March 2006, an international meeting was organized in Lithuania, to discuss the programme *Illegal Migration and Trafficking in Children in the Baltic Sea Region* implemented by the working group. Mention should also be made of the Baltic Sea programme on separated and sold children which has been successfully implemented by the CBSS. The Republic of Lithuania participates in the CBSS two-year training programme launched in 2006 and aimed at helping child victims of trafficking. The training aimed at filling in the gaps in the competence to give care and assistance to child and youth victims of trafficking in human beings contributes to a better legal protection of child victims of trafficking.

## **Implementation of article 11**

137. To ensure that the rights of the child protected by this Optional Protocol are respected, the Republic of Lithuania also follows other requirements of the international law and legal acts on regional cooperation. It should be noted that apart from general international legal acts on the protection of human rights, Lithuania has ratified the Optional Protocol to prevent, suppress and punish trafficking in persons, especially women and children, to the United Nations Convention against Transnational Organised Crime (*Valstybės žinios* (Official Gazette) No. 36-1178, 2004). Furthermore, the contents of legal acts of the Republic of Lithuania related to the implementation of the provisions of the Optional Protocol also take account of certain European Union legal acts, particularly Council Framework Decision 2004/68/JHA of 22 December 2003 on combating the sexual exploitation of children and child pornography (OL 2004 Special Edition, Chapter 19, Volume 7, p. 10) and Council Framework Decision 2002/629/JHA of 19 July 2002 on combating trafficking in human beings (OL 2004 Special Edition, Chapter 19, Volume 6, p. 52).

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