



## International Covenant on Civil and Political Rights

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### Human Rights Committee 105th session

#### Summary record of the 2896th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 10 July 2012, at 3 p.m.

*Chairperson:* Ms. Majodina

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*The meeting was called to order at 3 p.m.*

**Consideration of reports submitted by States parties under article 40 of the Covenant**  
(continued)

*Third periodic report of Lithuania (CCPR/C/LTU/3; CCPR/C/LTU/Q/3 and Add.1)*

1. *At the invitation of the Chairperson, the delegation of Lithuania took places at the Committee table.*
2. **Ms. Skaisgiryte Liauskiene** (Lithuania), introducing her country's third periodic report (CCPR/C/LTU/3), said that her Government was firmly committed to upholding the country's national and international human rights obligations and believed that the best way to achieve human rights protection was through a combination of national measures and international engagement. Since the submission of the periodic report in 2010, there had been notable developments in both the national and international areas. At the international level, Lithuania had ratified the Convention on the Rights of Persons with Disabilities and its Optional Protocol in 2010 and had reported to three international bodies (Committee on the Elimination of Racial Discrimination, Human Rights Council and the Council of Europe's Advisory Committee on the Framework Convention for the Protection of National Minorities) in 2011. At the domestic level, it had made a number of significant legislative advances.
3. The most important piece of new legislation was the Law on Protection against Domestic Violence, which, after extensive debate, had entered into force on 15 December 2011. It provided for victim support, assistance and protection measures, as well as sanctions for offenders, such as removal from the family environment and restraining orders. Crucially, it obviated the requirement that either the victim or their authorized representative should file a complaint in order for pretrial investigations to be initiated and a prosecution brought. Thanks to close cooperation between Government institutions, the NGO sector and law enforcement officials, the Law's promulgation had had immediate effects, contributing to a significant shift in public attitudes and a marked increase in the number of cases reported.
4. Another significant legislative development had been the unanimous adoption of the Law on Goodwill Compensation for Jewish Religious Community Immovable Property in 2011. A dedicated foundation had been established to distribute the compensation to which victims of repression during the Second World War and the subsequent Soviet regime were entitled under the new Law; it had been assigned a State budget of around \$1.2 million for 2012.
5. As part of its ongoing efforts to combat racism, the Government had also been carrying out the legislative reforms necessary to criminalize hate crime. The Criminal Code had undergone a number of amendments to guarantee effective protection for any persons victimized on the grounds of, inter alia, their nationality, language, place of origin, gender or sexual orientation, and to provide that racial or any other discriminatory motivation should constitute aggravating circumstances in determining criminal penalties. Severe criminal penalties had also been established for racist activities previously subject to administrative sanctions only, such as the production, possession and distribution of information promoting national, racial or religious discord and the establishment of organizations that incited national, religious, ethnic or other discord between different population groups.
6. Her Government was also continuing its efforts to improve access to justice and a fair trial and had amended the Code of Criminal Procedure and the Civil Code to that end. A time limit of 3 to 9 months, depending on the seriousness of the offence, had been established for pretrial investigations and a class action mechanism had been introduced. A

proposal for the payment of compensation to persons who had endured excessively long pretrial investigations or trials had been submitted to parliament in April 2011 and, following a protracted trial, more lenient sentencing was standard court practice.

7. The authorities were also endeavouring to make more effective use of probation as a means of reducing detainee numbers and reoffending rates, after new legislation adopted in December 2011 had shifted the focus from restraint and control to rehabilitation and reintegration. Following the new law's entry into force in July 2012, a wider range of alternative, non-custodial measures, such as electronic tagging, would be available to the courts, and probation commissions would be established at every detention facility to assess reoffending risk and prepare individually structured monitoring and assistance programmes for candidates for probation.

8. The Government recognized that its Soviet-inherited detention system was costly and ineffective and still did not meet international standards, but it was committed to making the necessary reforms. In addition to wider use of non-custodial measures, significant investment in infrastructure modernization was planned, possibly — in view of the current constraints on finances — through public-private partnerships. The reforms would entail a reduction in the total number of facilities and the establishment of larger, more cost-effective institutions away from urban areas, and should radically improve prison conditions.

9. Although it was not an issue directly covered by the Covenant, she wished to emphasize that human rights education had been given more prominence in school curricula in Lithuania and that secondary-school children would henceforth learn about the United Nations treaty body system in general, the Committee on the Rights of the Child in particular, the Holocaust, human rights and democracy. Lithuania had made a very rapid transition from neglect to observance of human rights and had achieved substantial results in many areas through improved legislation and practice. However, the Government recognized that human rights were not just theoretical but must be effectively enjoyed in practice, and that much still remained to be done.

10. **Mr. Thelin**, commending the State party on the comprehensiveness of its written replies to the list of issues (CCPR/C/LTU/Q/3) and on the advances achieved since its previous dialogue with the Committee in 2004, said that, in view of that progress, he had been saddened to learn that some parts of the NGO community perceived a certain deterioration in the way human rights were viewed by the public and by political parties in recent years. He invited the delegation to comment on that perception, which raised questions as to whether human rights were compatible with the basic cultural and traditional values of Lithuania.

11. In spite of the detailed responses, he was still uncertain as to the status of the Covenant in domestic law and whether it was directly or only indirectly applicable. Paragraph 3 of the replies to the list of issues cited a number of cases in which the Covenant had been invoked in court but it was not clear whether the Covenant's provisions had been given precedence over domestic law in those cases. Paragraph 4, on the other hand, implied that the Covenant provisions were only indirectly applicable and must be transposed into domestic law in order to be effective. It was also unclear whether the principle of *iura novit curia* ("the court knows the law") applied or whether it was for the parties arguing the case to bring the provisions of law to the attention of the courts. Clarification regarding the frequency of the Covenant's application in courts and confirmation that court decisions were not subject to the scrutiny of the Ombudsman would also be appreciated.

12. Noting with satisfaction that the State party had taken action on the Committee's recommendations in two recent cases in which violations under the Covenant by Lithuania

had been found, he asked what practical mechanisms were in place for dealing with complaints and implementing the Committee's Views, and whether a specific body had been established for that purpose. Further noting that, according to the written replies, responsibility for liaison with the Committee lay with the Government's representative to the European Court of Human Rights and that in its general comment No. 33 the Committee stated that its Views had the characteristics of a judicial decision, he asked whether the State party gave equal weight to the Committee's Views and the decisions of the European Court of Human Rights.

13. Noting that paragraph 3 of the written replies referred to a case in which article 7 of the Covenant had been invoked in court, he asked whether it would be standard judicial practice to apply the definition of torture contained in article 1 of the Convention against Torture, given that the Criminal Code of Lithuania did not contain an express definition. Since for reasons of accessibility and efficiency it was always preferable to have specific definitions in positive law, he urged the State party to incorporate the definition of torture given in the Convention within its domestic legislation.

14. Although the recent legislative amendments aimed at limiting the use of pretrial detention were commendable, he would like to know what happened when the nine-month time limit for pretrial investigation expired before the prosecution could provide an indictment. Did an expired deadline necessarily preclude the initiation of trial proceedings or was it simply a procedural violation to be noted for the record? And could a protracted period of pretrial detention lead to a more lenient sentence? Clarification was also needed as to whether the reduction in prison sentences awarded to offset periods of pretrial detention to which the State party had alluded was mandatory or at the discretion of the courts. He would also like to know to what extent reparation for periods in pretrial detention was made upon acquittal and whether the State awarded monetary compensation. Lastly, since alternatives to pretrial detention such as bail and house arrest were available in principle but appeared to be rarely used in practice, he would appreciate an indication of the frequency with which more humane non-custodial measures were used instead of detention.

15. **Mr. Salvioli** said that, while he appreciated the Government's written replies to questions 3, 4 and 9 outlining the relevant regulatory framework, he wished to know more about the implementation of the regulations. He asked whether the number of complaints of domestic violence had increased and whether they had led to any prosecutions or convictions. Certain NGOs had expressed concern about the inadequate funding of programmes to combat domestic violence. He asked what percentage of public offices was held by women. He wondered if the State party would consider developing a strategy to take into account the will of persons with intellectual disabilities so as to ensure that they were not subjected to forced abortions.

16. **Mr. O'Flaherty** said it had been suggested in regard to the prosecution of hate speech that the standard of proof was too high and that there was a lack of prosecutorial initiative; he asked the delegation to comment. Referring to the Committee's general comment No. 34, he reminded the delegation that, like all rights, the right to freedom of expression was limited, and that the prohibition of any expression that was "offensive to religious or political beliefs" appeared to be incompatible with article 19 of the Covenant. The prevailing social attitudes towards Jews in Lithuania were very worrisome and had recently led to several disturbing incidents. For example, Jewish cemeteries had been vandalized, a pig's head had been left on the doorstep of a synagogue, a march had been held in which participants had carried swastika flags and shouted anti-Semitic slogans, and in 2010 a district court had issued a ruling allowing the public display of the swastika. He asked what the State party was doing to investigate and deal with such incidents.

17. He was concerned about the faulty logic behind the law prohibiting public information in which homosexual, bisexual or polygamous relations were promoted having

a detrimental effect on the mental health or physical, intellectual or moral development of minors. Such legislation could inhibit the proper development of children's own sexual orientation or gender identity. While it was welcome news that a proposed legislative amendment to prohibit actions promoting the rights of lesbian, gay, bisexual and transgender persons had recently been rejected in parliament, according to sources there was still a strong will within parliament to bring the issue back for debate. He reminded the delegation that any such legislation would be in clear violation of the Covenant. Current efforts to restrict the constitutional definition of the family to the mother, father and children excluded not only same-sex families but also other, more traditionally accepted types of families. If passed, the proposed amendment to the Civil Code prohibiting gender-reassignment surgery would be a violation of the Covenant.

18. A 2010 survey had shown that attitudes towards the Roma were deteriorating. While he welcomed the establishment of the action plan under the National Programme for the Integration of the Roma into Lithuanian Society for 2012–2014, NGOs had reported problems with the plan, including inadequate funding, the lack of a strong reporting framework and insufficient emphasis on providing all necessary social services. He asked the delegation to comment on those issues and to indicate what role the Roma played in monitoring the plan.

19. It was difficult to reconcile the State party's claim that it had not been involved in the United States rendition programme with the statements to the contrary issued by several eminent international and regional organizations. In the light of recent developments, he asked if Lithuania would consider reopening the investigations into that matter.

20. **Mr. Bouzid** said that, according to the Government's written replies to the list of issues, individuals could lodge complaints of ill-treatment during a pretrial investigation either directly or indirectly, and in either written or oral form. He requested further clarification of such complaint procedures. He also wished to know if the law prescribed sanctions for officials who received a complaint of ill-treatment from a detainee or prisoner and failed to refer it to the competent authority in cases where they were not authorized to examine the complaint themselves.

21. He asked what measures the State party was taking to address the increasing number of convicted prisoners who resisted or attacked law enforcement officials. He wondered if there were plans to repeal the controversial restriction on personal possessions allowed in prisons. He asked if the State party intended to amend article 20 of the Code of Criminal Procedure so that it clearly stipulated that evidence obtained through violence was inadmissible.

22. He wished to know more about the results achieved by the new body set up to monitor places of detention and whether the work of that body had been evaluated. He asked if the State party intended to ratify the Optional Protocol to the Convention against Torture. He enquired how often solitary confinement was used in prisons. The Government's written replies indicated that the plan to modernize places of detention would be implemented through a partnership between the public and private sectors. He asked if the involvement of the private sector would be limited to the construction and renovation of prisons, or whether it would extend to prison administration.

23. He wondered if the problem of prison overcrowding might not jeopardize the separation of minors from adults. According to the written replies, parliament was still deliberating an amendment to the Law on Fundamentals of the Protection of the Rights of the Child, which included a complete prohibition of corporal punishment. NGOs had indicated, however, that the Government had decided to prepare a new bill on the well-being of the child that would address the issue of physical punishment, obviating the need to amend the aforementioned Law. NGOs had alleged that the new Law would not protect

children from violence and that corporal punishment was widely viewed among members of parliament as an accepted part of the Lithuanian heritage. He asked the delegation to comment on the matter and to provide information on the latest developments.

24. **Mr. Ben Achour** asked how domestic violence was defined in the Law on Protection against Domestic Violence of 2011, and what link could be established between that Law and implementation of the Covenant.

25. **Ms. Chanet** welcomed the many positive developments in Lithuania since the State party's previous periodic report. For instance, the Law on Probation, which had entered into effect on 1 July 2012, would help to resolve the problem of overcrowding in the country's prisons.

26. The Committee had criticized the fact that certain minor administrative violations entailed prison sentences. She was therefore pleased that the maximum period of administrative detention for such violations was now 5 hours. However, according to paragraph 163 of the report, a person held administratively liable for certain infringements of the rules could be detained for up to 48 hours. She wished to know what type of administrative infringements could entail such extended detention.

27. According to paragraph 165, a judge could extend the period of police custody in criminal cases beyond 48 hours. She enquired about the maximum period of police custody. The same paragraph stated that the normal maximum period of detention of 24 hours for a person who was questioned as a suspect could be extended by a ruling of the prosecutor to the maximum period of provisional detention. She found it odd that a prosecutor could extend police custody without consulting a judge. Lastly, she wished to know whether detainees had access to a lawyer during police custody.

28. **Mr. Sarsembayev** said that, according to some sources, there had been an increase in the use of fascist symbols and slogans in Lithuania. He invited the delegation to comment on those reports.

29. He asked whether any Lithuanian citizens who had served in the German *Schutzstaffel* (SS) and *Wehrmacht* (armed forces) during the Second World War were technically classified as Nazi war criminals. He also enquired about the Lithuanian State's position with regard to the verdicts in the Nuremberg trials.

*The meeting was suspended at 4.25 p.m. and resumed at 4.45 p.m.*

30. **Ms. Skaisgiryte Liauskiene** (Lithuania), noting that some members of the Committee seemed to be under the impression that the human rights situation in Lithuania was deteriorating, pointed out that her country had achieved independence only 22 years previously. Lithuanian human rights activists and supporters of the rights of homosexuals under the Soviet system had been imprisoned or sent to Siberia. As a result, there had been little public awareness of international human rights law and United Nations treaties. The Holocaust and anti-Semitism had not been discussed either under the Soviet system. Lithuanian society was still in transition but tremendous progress had been made in terms of its understanding of human rights issues. Lithuanian NGOs had not existed 22 years previously, but they now submitted "shadow reports" to the human rights treaty bodies containing critical analyses of the situation in the country.

31. **Ms. Bukantaite-Kutkeviene** (Lithuania) said that, pursuant to the Constitution, all international treaties ratified by Lithuania formed an integral part of domestic law. The Constitutional Court had also ruled that international treaties were directly applicable by the courts. The provisions of the Covenant, such as the prohibition of discrimination, had frequently been invoked by parties to legal proceedings and cited in court decisions, but there were no statistics concerning such cases.

32. The same applied to Lithuanian implementation of the Committee's Views under the Optional Protocol to the Covenant and of decisions of the European Court of Human Rights. The law provided, for instance, for monetary compensation and for the reopening of proceedings in which mistakes had been made.

33. The Law on the Seimas Ombudsmen contained an article specifying the Ombudsmen's area of jurisdiction. The activities of the President of the Republic, members of parliament, the Prime Minister, and judges of the Constitutional Court and other courts fell outside their jurisdiction.

34. Lithuania had ratified the Convention against Torture, which was directly applicable in the courts. There was no single article in the Criminal Code covering all aspects of the crime of torture, but various elements were included in different articles. The possibility of amending the Criminal Code to include a single article on torture was currently being discussed. Some experts considered that the existing articles combined with consistent court practice were sufficient to ensure compliance with the Convention.

35. **Ms. Vysniauskaite-Radinskiene** (Lithuania) said that the Law on Protection against Domestic Violence had entered into force at the end of 2011; it was therefore too early to assess its impact. It prohibited any form of wilful action that caused physical, psychological, sexual, economic or any other form of harm to the victim. It defined the domestic environment very broadly as encompassing persons currently or previously linked by marriage, partnership, affinity or other close relations, as well as persons with a common domicile.

36. Integrated psychological, legal and other assistance was to be provided to victims in centres established under a special programme. Funding had been allocated for the period 2013 to 2020.

37. **Ms. Urbone** (Lithuania) said that the regulations relating to implementation of the Law on Protection against Domestic Violence had been adopted. They required the police to intervene forthwith on receiving reports of domestic violence, to provide protection for victims and to initiate an investigation. They also described the procedures for removing offenders from dwellings in which violence had occurred and for police monitoring of the implementation of court decisions.

38. The impact of the Law was discernible in a decline in the number of cases of domestic violence during the past six months. As at 15 June 2012, police stations had received almost 13,000 allegations of domestic violence and investigations had been initiated in just over 4,300 cases. In January 2012, the police had received some 3,500 requests for action; that figure had declined in the following month to about 1,700. The corresponding figures for investigations were approximately 1,200 and 530 respectively. While the overwhelming majority of alleged offenders had been males, there had also been male victims. There had also, unfortunately, been several hundred cases of violence against children.

39. **Ms. Stasiuliene** (Lithuania) said that women were permitted to terminate unwanted pregnancies and contraceptives were available without prescription. If a pregnancy constituted a threat to a woman's health, she would have no difficulty in obtaining an abortion. According to a provision of the Civil Code, persons who were not in full command of their faculties could opt for chemical castration. Pregnancies could be terminated in the case of persons with disabilities only on the basis of a court decision. There were no statistics for forced abortions in such cases.

40. **Mr. Valentukevicius** (Lithuania), replying to questions concerning violence against persons on the ground of their ethnic origin or sexual orientation, said that the number of

criminal cases concerning such offences had increased since 2006. The number of offences involving anti-Semitism had also increased slightly in recent years.

41. Almost 97 per cent of such infringements took place on the Internet and the offenders frequently used pseudonyms. Their statements were tantamount to hate speech directed against persons or groups on the basis of their ethnic origin, race, sexual orientation, religion or other status. He could not agree that the Prosecutor's Office should take the initiative in such cases, for instance by monitoring the Internet. Prosecutors conducted preliminary investigations as soon as an offence was reported but they were not assigned a pre-emptive role under the Constitution or other legislation. Victims were in all cases entitled to file a written complaint with the Prosecutor's Office or the police and that was a sufficient basis for the opening of a criminal case. The Code of Criminal Procedure also permitted prosecutors to take the initiative if, for example, they found material on a website that was tantamount to hate speech. Moreover, as greater attention was now being paid to human rights protection on the social networks, prosecutors were receiving an increasing number of requests to open criminal cases.

42. During the period from 2010 to June 2012, there had been an increase in the number of criminal cases concerning discrimination, incitement to discord, and hate speech based on sexual orientation, ethnic origin, religion or other status. A total of 335 investigations had been opened in 2011, compared with only 131 in 2010. The figure for the first half of 2012 was 118, of which 37 cases concerned hate speech directed against persons on the basis of their sexual orientation. Many alleged offenders had been prosecuted and convicted.

43. The information provided to the Committee regarding Nazi symbols was inaccurate. In January 2012, a court of first instance had opened an administrative case against four individuals who were deemed to have violated the Administrative Code by using totalitarian Nazi and communist symbols. The court had acquitted them on the ground that the placards and enlarged photographs they had displayed were based on thirteenth-century Lithuanian symbols and stemmed largely from engravings representing the sun and the swastika.

44. The Criminal Code prescribed penalties for persons who desecrated Jewish cemeteries. The few cases recorded were in no way representative or indicative of the existence of organized groups promoting Nazi ideology. It was frequently difficult to ascertain who was responsible for such offences. However, the main Holocaust memorial near Vilnius had been defaced by two individuals who had been convicted after six months of legal proceedings. Nazi flags were hoisted and Nazi slogans displayed in Vilnius and other cities almost every year on 22 April, Adolf Hitler's birthday. Four criminal cases had been opened in 2011. Those responsible often belonged to marginal groups such as skinheads. He was pleased to note that only two anti-Semitic incidents had occurred during the first half of the current year and that neither had occurred on 22 April.

45. **Ms. Urbone** (Lithuania) said that the central police authority had issued a decree requiring police officers to be vigilant at certain locations in order to pre-empt acts such as the defacing of memorials and cemeteries or the raising of flags with Soviet or Nazi symbols. They were also required to protect diplomatic and consular establishments and certain sites associated with national and ethnic minorities. Stringent measures had been adopted when the police were informed of possible plans for a terrorist attack against Israel.

46. **Mr. Vidtmann** (Lithuania) said that the Law on the Protection of Minors against the Detrimental Effect of Public Information did not prohibit information promoting homosexual relations. The provision to that effect had been deleted from the draft version. Public information could be restricted under the Law when it promoted sexual relations, expressed contempt for family values, and encouraged forms of marriage and family

formation that were inconsistent with the Constitution and the Civil Code. In practice, however, the criteria were hardly ever applied because of their vagueness. The Law also prohibited the dissemination of information which ridiculed or humiliated a person or group of persons on grounds of nationality, race, sex, origin, disability, sexual orientation, social status, language, religion, belief, views or other similar grounds.

47. In 2010, there had been 43 cases of the harmful publication of personal data concerning minors who were suspected of having committed a crime or who were inditees, defendants, convicts or victims of criminal acts or other offences. In 74 cases the dignity or interests of minors had been undermined by the publication of data.

48. The dissemination of information involving incitement to suicide was also restricted by the Law. Twenty-two such cases had been recorded in 2010.

49. Incitement to hatred in the media and on the Internet was not compatible with freedom of expression and public information principles. It constituted a crime under article 24 of the Constitution and article 170 of the Criminal Code. Paragraph 1 of the Law on Provision of Information to the Public prohibited the publication in the media of information which constituted incitement to war or hatred or which instigated discrimination, violence or ill-treatment against an individual or group on the aforementioned grounds. The Inspector of Journalistic Ethics monitored compliance with the relevant provisions.

50. On 15 July 2009, parliament had adopted amendments to the Law authorizing the Inspector of Journalistic Ethics, as from 1 January 2010, to establish on the basis of expert advice whether information published in the media constituted incitement to hatred on the grounds of gender, sexual orientation, race or other characteristics. Competent institutions had submitted 113 applications to the Office of the Inspector of Journalistic Ethics concerning information published in the media that could constitute incitement to hatred on the aforementioned grounds. The Office had processed 110 applications and submitted conclusions regarding 767 comments published on the Internet, 3 publications, 2 video clips, 1 questionnaire, 8 calendars or cards, 8 posters, 8 song lyrics, 2 press articles and 1 television broadcast.

51. The largest share of incitement to hatred and instigation to violence concerned sexual orientation (81 per cent), followed by origin and nationality (24 per cent). Most of the comments were published on popular websites. A conference on “Words and their meaning in the expression of hatred” had been held to discuss the problem.

52. The whole of society was, of course, involved in the creation of Internet content. It was therefore important to involve NGOs and the general public in detecting hate speech. A hotline for the purpose was administered by the Communications Regulatory Authority in cooperation with the police. The hotline was partially funded by the European Commission’s Safer Internet Plus Programme.

53. **Ms. Bukantaite-Kutkeviciene** (Lithuania) said that her Government was not considering the possibility of amending the Civil Code to eliminate the right to change the designation of one’s gender. On the contrary, a series of proposed legal amendments recently submitted by the Minister of Justice to the Government included a provision indicating the procedure for registration of gender changes with the Registrar of Civil Status.

54. **Mr. Vidtmann** (Lithuania) said that the Roma minority certainly faced problems and suffered discrimination in his country as elsewhere. According to NGOs, 45 per cent of the population did not wish to live next door to a Roma family. However, such attitudes did not necessarily lead to racial discrimination in practice.

55. There were very few cases in which members of the Roma minority had been found to have no identity card.

56. The action plan under the National Programme for the Integration of the Roma into Lithuanian Society for 2012–2014 had been drafted over a period of four months. Unfortunately it had been influenced by the current austere financial situation, which had entailed budgetary reductions in all areas of public funding. The two main aims of the plan were to improve the Roma community's social situation and to promote an intercultural dialogue with other groups in Lithuanian society. He rejected the NGO argument that too much attention was being paid to cultural integration. There was no danger of assimilation or loss of cultural identity. All cultural measures under the plan focused on promoting the cultural identity of the Roma, tackling the negative attitudes of other social groups and drawing them closer to the Roma community.

57. Social issues such as housing were far more complicated. The Roma themselves expressed diverse views on the subject and many wished to have access to social housing. Twenty-eight Roma families had been provided with such housing since 2010 and a further 40 had submitted applications.

58. A working group would monitor implementation of the action plan. Work had also begun on an inter-institutional programme to be launched in 2014. Consultations were under way with NGOs and Roma community organizations. Unfortunately, however, many members of the Roma organizations had emigrated from Lithuania.

*The meeting rose at 6 p.m.*