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

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parties under article 40 of the Covenant**

Lithuania*

Addendum

**Replies from the Government of Lithuania to the list of issues
(CCPR/C/LTU/Q/3) to be taken up in connection with the consideration
of its third periodic report (CCPR/C/LTU/3)**

[10 April 2012]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

Reply to the issues raised in paragraph 1 of the list of issues (CCPR/C/LTU/Q/3)

1. It should be noted that the courts handle civil, administrative and criminal matters pursuant to the provisions set out in the Covenant and apply them in actual practice. While examining cases, the courts have infrequently relied upon the principle of the access to judicial protection as provided in article 2 of the Covenant (e.g. Ruling of the Vilnius Regional Court of 7 July 2011 in civil case No 2S-313-464/2011, Ruling of the Kaunas Regional Court of 8 June 2010 in civil case No 2S-1232-273/2010, Ruling of the latter court of 30 August 2011 in civil case No 2S-1660-605/2011, Ruling of the Court of Appeal of Lithuania of 7 August 2008 in civil case No 2A-368/20080, Ruling of the Supreme Administrative Court of Lithuania of 7 November 2011 in administrative case No A⁵⁷⁵-3527/2011 and etc.) and the principle of prohibition of discrimination (e.g. Ruling of the Supreme Court of Lithuania of 25 June 2003 in case No 3K-3-747/2003).
2. The Supreme Administrative Court of Lithuania in its consideration of cases followed the provisions of article 9 of the Covenant (e.g. Ruling of 27 October 2004 in administrative case No N¹²-1296-04), applied the principle of impartiality laid down in article 14, paragraph 1 of the Covenant (e.g. Ruling of 24 September 2004 in administrative case No N¹¹-1097/200400), decided cases in accordance with articles 10 and 17 of the Covenant (e.g. Ruling of 17 June 2003 in administrative case No A⁷-573-2003), applied the Covenant's article 13 (e.g. Ruling of 23 June 2010 in administrative case No A⁸⁵⁸-1810/2010) and examined cases under article 25 of the Covenant (e.g. Ruling of 19 February 2007 in administrative case No R⁹-62-7/2007).
3. While examining criminal cases, the courts have applied article 7 of the Covenant (e.g. Ruling of the Supreme Court of Lithuania of 6 April 2004 in criminal case No 2K-199/2004), followed the presumption of innocence set forth in article 14(2) of the Covenant (e.g. Ruling of the Court of Appeal of Lithuania of 5 August 2008 in criminal case No 2A-425/2008), affirmed the importance of practical application of article 14(3) of the Covenant (Ruling of the Senate of the Supreme Court of Lithuania of 17 September 2004 No 48), applied the *non bis in idem* principle laid down in article 14 (7) of the Covenant (e.g. Ruling of the Court of Appeal of Lithuania of 19 February 2011 in criminal case No 1A-71/2011, Ruling of the Supreme Court of Lithuania of 16 October 2007 in criminal case No 2K-606/2007), implemented the provisions of article 9, paragraph 5 of the Covenant (e.g. Ruling of the Court of Appeal of Lithuania of 18 August 2005 in criminal case No 2A-248/2005) and applied the rules of article 15 of the Covenant (e.g. Ruling of the Court of Appeal of Lithuania of 19 February 2011 in criminal case No 1A-71/2011).
4. It is important to note that the provisions of the Covenant have been transposed into the national legal acts, therefore, the courts, by applying relevant legislative acts, are also applying the norms of the Covenant.

Reply to the issues raised in paragraph 2 of the list of issues

5. Certain aspects of the procedure to be adhered to for the implementation of the conclusions of the Human Rights Committee (hereinafter referred to as "the Committee") under the Covenant's Optional Protocol are laid down in the Law of the Republic of Lithuania on Reimbursement of Damage Caused by Illegal Actions by Public Authorities (hereinafter referred to as "Reimbursement Law") and the Code of Criminal Procedure of the Republic of Lithuania. Article 1 of the Law of the Republic of Lithuania on Reimbursement of Damage Caused by Illegal Actions by Public Authorities "provides for <...>the enforcement of the decisions of the Human Rights Committee", while under article 2(1), the decisions of the Committee as one of the "other international institutions" envisaged by this law shall be enforced from annual budgetary appropriations for the reimbursement of damage. The holder of these appropriations is the Ministry of Justice of

the Republic of Lithuania. According to article 456 of the Code of Criminal Procedure, the cases examined by the Lithuanian courts may be renewed when the Committee recognizes that the decision to sentence a person has been made in violation of the International Covenant on Civil and Political rights and its Optional Protocols.

6. On the other hand, the Committee's case-law contains very few judgements on cases against Lithuania, all in all, since 1991, the Committee has decided on three complaints lodged against Lithuania. In two of the cases the Committee found violations of the Covenant: in *Kęstutis Gelažauskas* case (Communication No 836/1998 of 17 March 2003) violation of article 14, paragraph 5 of the Covenant (of the right to have one's sentence or conviction reviewed) was established; in *Jan Filipovič* case (Communication No 875/1999 of 4 August 2003) – violation of article 14, paragraph 3(c) of the Covenant (of the right to be tried without undue delay) was found. The case of *Michal Klečkovski* was found to be inadmissible (Communication on admissibility No 1285/2004 of 24 July 2007). Three more complaints against Lithuania were submitted to the Government and are being considered.

7. It is noteworthy that the Committee, in its conclusions, indicates how the defendant State should remedy the violation of the Covenant, as well as the period within which the State must inform about the measures taken to this effect. For example, in *K. Gelažauskas* case the Committee, pursuant to article 2 of the Covenant, clearly indicated that the Republic of Lithuania is a State party to the Covenant, therefore, it is requested to ensure to all individuals subject to its jurisdiction the rights recognized in the Covenant as well as to provide the complainant with an effective legal remedies, including the opportunity to lodge a new appeal, or should this no longer be possible, to give due consideration of granting him release. It should be noted that, by 13 January 2003, the Kaišiadorys District Court of the Republic of Lithuania had already adopted a decision pursuant to which the complainant *K. Gelažauskas* was released on parole from serving the remaining term of the custodial sentence (3 years 2 months and 10 days prior to the completion of his sentence) subject to obligations imposed by the court and, therefore, the Government held the position that this decision of the Committee had already been implemented. It should further be noted that the Committee, in its decision on *J. Filipovič* case, indicated that "<...>In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide the author with an effective remedy, including compensation <...>." Taking into account the Committee's Decision, the Government of the Republic of Lithuania by a separate Resolution No 1691 of 24 December 2003 approved a compensation of LTL 5,000. The decision was taken on the Government level, since the Law of the Republic of Lithuania on Reimbursement of Damage Caused by Illegal Actions by Public Authorities was supplemented by the provision on the reimbursement of damage pursuant to the decisions of the Committee only on 30 March 2004. By this decision, the Government authorized the Ministry of Justice to pay this compensation to the complainant from the share of budgetary appropriations to reimburse the damage caused by unlawful actions of bodies of inquiry and investigation, prosecutors and court (judge), in accordance with Reimbursement Law. The Government's representative to the European Court of Human Rights was assigned the duty to make an appropriate notification to the Committee.

8. Under the Reimbursement Law and the Regulations of the Government representative to the European Court of Human Rights, the coordination of the implementation of the Committee's conclusions falls within the functions of the Government's representative to the European Court of Human Rights, however, enforcement of specific conclusions of the Committee requires an individual decision in each separate case, taking into account the Committee's guidelines.

Reply to the issues raised in paragraph 3 of the list of issues

9. On 1 December 1998, the Law on Equal Opportunities for Women and Men came into force. The purpose of the Law is to ensure the implementation of equal rights for women and men guaranteed in the Constitution of the Republic of Lithuania and the prohibition of any discrimination on the grounds of a person's gender. According to article 5 of the aforementioned Law, the employer must apply uniform selection criteria and conditions when recruiting or promoting. Employer's actions are recognized as violating equal opportunities of women and men, if he or she applies more or less favourable conditions in recruitment, promotion or pay for the same work or for the work of equivalent value on the grounds of a person's gender. Thus, in respect of women, the Law ensures the opportunity of equal access to decision making posts in both public and private sectors. The National Programme on Equal Opportunities for Women and Men (hereinafter referred to as the "Programme") is being carried out on a regular and systematic basis to ensure a consistent, comprehensive and systematic implementation of the provisions of the Law on Equal Opportunities for Women and Men in all areas. Currently, already the third Programme for 2010-2014 is underway. For the purpose of the implementation of the Programme, a Plan of Implementation Measures of the Programme for 2010-2014 was approved by Order of 7 July 2010 No A1-323 of the Minister of Social Security and Labour. According to this Plan, in 2010-2014, the following measures will be implemented with the State budget resources:

- (1) Organization of information campaigns designed to raise public awareness about the benefits of balanced representation of the interests of women and men in economic and political decision-making;
- (2) Drafting of guidelines for the application of special protection measures;
- (3) Organization of workshops in all regions of Lithuania on the application of temporary special measures;
- (4) Organization of educational events aimed at encouraging the participation of rural population in public activities;
- (5) Organization of seminars for rural communities aimed at promotion of volunteering;
- (6) Establishment of operation of the network of women in politics clubs in all regions of Lithuania.

Reply to the issues raised in paragraph 4 of the list of issues

10. The following legislation is related to domestic violence: The Law on Protection against Domestic Violence (the English version is available online at http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=410975), the National Strategy for Combating Violence against Women, approved by Resolution No 1330 of the Government of the Republic of Lithuania of 22 December 2006 and the Plan of Implementing Measures 2010-2012 for the Strategy, approved by resolution No 853 of the Government of the Republic of Lithuania of 19 August 2009. The said legislation covers the provisions aimed at preventing domestic violence, the protection of and assistance to the victims of violence as well as sanctions to the perpetrator.

11. Article 1 of the Law on Protection against Domestic Violence, which entered into force on 15 December 2011, stipulates, inter alia, that domestic violence is categorized as an act of public significance due to the damage it causes to the public. This provision means that initiation of pretrial investigation on domestic violence no longer requires an application from the victim or his authorized representative. With the entry into force of the aforementioned law, any report on domestic violence immediately results in pretrial

investigation, thus ensuring the implementation of the criminal procedure and the prosecution of the persons guilty of the crime, irrespective of the will of the victim, who may often be under the economic or psychological influence of the perpetrator.

12. The law defines domestic environment as an environment comprising the persons currently or previously linked by marriage, partnership, affinity or other close relations, also the persons having a common domicile and a common household. The law states that the court, having detected the fact of domestic violence, shall apply the following measures for the protection of the victim of violence:

(1) Obligation of the perpetrator of violence to temporarily move out of the place of residence, if he resides together with the victim of violence;

(2) The obligation for the perpetrator of violence not to approach the victim of violence, not to communicate and not to seek contact with him.

13. In order to properly implement the said law and to ensure compliance with its provisions, the following legislation has been adopted:

– Procedure for the control by police officers of the obligation imposed on a perpetrator of violence to temporarily move out of a dwelling (approved by Order No 5-V-1061 of the Commissioner General of the Lithuanian Police of 30 November 2011);

– Procedure for the eviction of perpetrators of violence (approved by Order No 5-V-1115 of the Commissioner General of the Republic of Lithuania of 14 December 2011).

Reply to the issues raised in paragraph 5 of the list of issues

14. The pretrial investigation institutions and prosecution offices of the Republic of Lithuania investigate xenophobic incidents and discriminatory activities appropriately, react to such cases in a timely fashion, and initiate relevant pre-trial investigations. They are conducted either by police institutions under the guidance of a prosecutor or by prosecutors themselves.

15. The National Security Department, within its remit and using the methods of operational activities, examines the societal and political processes with a bearing on national security. Upon receipt of any information on the manifestations of anti-Semitism and other activities, such as vandalism against Jewish statues, cemeteries, memorials and buildings, the National Security immediately transfers such information to the competent law enforcement authorities for procedural decisions.

16. It should be noted that on 16 June 2009 the legislature of the Republic of Lithuania passed an amendment to the Criminal Code to criminalize the former administrative infringements relating to the distribution, production, acquisition, sending, transportation as well as possession of items (information products) demonstrating sneer or scorn or instigating hatred or discrimination against a group of people or a person belonging to it on the basis of gender, sexual orientation, race, nationality, language, origin, social status, religion, convictions or views or instigating violence or physical aggression against such a group of people or a person belonging to it. Additionally, the same law criminalized rather dangerous acts which were previously unreasonably classified as administrative infringements, namely the establishment and activities (including funding of such activities) of groups and organizations aiming at the discrimination or incitement (of hatred) against a group of persons.

17. The same Law of 16 June 2009 amending the Criminal Code of the Republic of Lithuania treats xenophobic, racial and discriminatory motives as an aggravating circumstance in the context of any other criminal activity, i.e. when any criminal activity is committed with the aim to express hatred of a group of persons or a person from that group

by reason of his age, gender, sexual orientation, disability, race, nationality, language, origin, social status, religion, beliefs or views. Additionally, the Criminal Code of the Republic of Lithuania established and updated the elements of serious and very serious crimes where they are committed with the aforementioned motives, i.e. it established criminal liability for murder committed with an intention to express hatred towards a group of persons or a person in that group on grounds of age, gender, sexual orientation, disability, race, nationality, language, origin, social status, religion, beliefs or views (art. 129(2)(13)), serious impairment of health committed with the same motives (art. 135(2)(13)), as well as minor impairment of human health committed with the same motives (art. 138(2)(13)).

18. The procedural rights of the victims of racial and other similar or related criminal acts are ensured properly, in the light of the provisions of the Constitution of the Republic of Lithuania, Convention on the Elimination of All Forms of Racial Discrimination, the European Convention on Human Rights and Fundamental Freedoms, and the Code of Criminal Procedure of the Republic of Lithuania. It should also be emphasized that roughly 95 per cent of criminal acts associated with the incitement of racial, homophobic, anti-Semitic and other related intolerance (art. 170 of the Criminal Code of the Republic of Lithuania) are committed online (in the electronic medium) – on the internet, by writing and posting one's comments in informational and mass media portals, personal websites (blogs), chat forums and social networks. Those acts are normally committed by persons who conceal their true identities and it is often impossible to quickly identify them using technical means or, upon identification, to obtain information on the relevant internet user and IP address if the server is located abroad. As a result, pretrial investigation in such cases is often complicated. On the other hand, once the identity of an alleged offender is established, pretrial investigations in the cases of this category of acts are usually rather swift and effective: such pretrial investigations are completed and the cases handed over to courts by way of a simplified procedure (the prosecutor's statement in court on the completion of the procedure by a judicial penalty order under article 418 of the Code of Criminal Procedure of the Republic of Lithuania). In the event the possible offender is not determined by pretrial investigation and the technical and operational search measures employed during it, rapid completion of the pretrial investigation becomes impossible.

19. It is noteworthy that in comparison with 2010 when, according to the official national crime statistics of the Ministry of the Interior of the Republic of Lithuania, pretrial investigations were instituted with respect to 158 acts of incitement of hatred (art.170 of the Criminal Code of the Republic of Lithuania) and 24 criminal cases in this category were handed over to courts, in 2011 the number of such criminal acts markedly increased: 328 such criminal acts were registered and 123 criminal cases reached courts after completed pretrial investigations. On the other hand, it needs to be mentioned that an absolute majority of such criminal acts consists of the incitement of hatred motivated not by a person's racial, national or religious identity, but chiefly by homophobic motives, namely a different (homosexual) orientation of a person or group of persons. For comparison, in the 2010-2011 period, four of the pretrial investigations launched concerned the incitement of hatred against African descent people, 14 – against the Roma, and 32 and four – against the groups of Polish and Russian people, respectively. The other pretrial investigations concern the criminal acts of inciting hatred against a group of homosexual people or members of such a group, i.e. acts driven by homophobic motives (which account for 80 per cent of all registered acts of incitement of hatred and initiated pretrial investigations into them).

20. Appropriate measures have been adopted by law enforcement authorities for the prevention of aforementioned crime, identification of and response to such phenomena or manifestations thereof and their detection/disclosure. The Office of the Prosecutor General of the Republic of Lithuania took part in the National Anti-Discrimination Programme 2009–2011, approved by resolution No 317 of the Government of the Republic of Lithuania

of 15 April 2009 by implementing two measures envisaged in the Programme for the Office of the Prosecutor General. On 23 December 2009, the Prosecutor General of the Republic of Lithuania approved, in accordance with the measure specified in the Programme, the methodological guidelines for prosecutors and pretrial investigation officers prepared by the Office of the Prosecutor General concerning the peculiarities of the organization, supervision and conduct of the pre-trial investigation of criminal acts perpetrated with racial, nationalist, xenophobic, homophobic or other discriminatory motives. These guidelines are intended for all prosecution offices and the central pretrial investigation body, i.e. the Police Department and the National Security Department (the latter holds the status of a pretrial investigation body as of 1 February 2011). The guidelines are published on the website of the Prosecution Service and are used in the practice of prosecutors and officers of pretrial investigation bodies in pretrial investigations into crimes against the equality of persons and the freedom of conscience as well as other criminal acts perpetrated with racial and other related motives. The guidelines have enabled more speedy and correct detection of the incidents of racism, xenophobia and homophobia and manifestations thereof as well as more efficient and swift pretrial investigation of such criminal cases.

21. Order No I-176 of the Prosecutor General of the Republic of Lithuania of 8 December 2009 adopted the Qualification Advancement Programme for specialising prosecutors, which includes four academic hours of training in the "Peculiarities of the qualification and investigation of criminal acts related to the incitement of racial hatred (art. 170 of the Criminal Code), discrimination (art. 169 of the Criminal Code) as well as criminal acts perpetrated with racial, xenophobic, or anti-Semitic motives". In 2009, prosecutors received training under this programme together with judges at the Training Centre for Judges of the National Courts Administration. Due to the reduction in the financial appropriations for the Prosecution Service in 2010, training for prosecutors under the said programme as well as other qualification advancement programmes was not conducted in 2010. Such training was carried out in 2011.

22. It should be noted that the National Courts Administration has adopted and will organize in 2012 training for judges and prosecutors under the Programme for qualification advancement in the legal and social aspects of combating discrimination.

23. Order No I-12 of the Prosecutor General of the Republic of Lithuania of 5 January 2012 will conduct the prosecutor training programme "The legal and social aspects of combating discrimination", which includes the following topics of lectures for prosecutors: national and international legislation prohibiting discrimination and their practical application; multiple discrimination: cultural norms and social consequences; prevention of ethnic and racial intolerance and xenophobia; public discourse and construction of stereotypes; the main definitions of criminal acts committed with racial, nationalist, xenophobic, homophobic, religious and other discriminatory motives and legal regulation thereof; the basic peculiarities of the qualification of criminal acts committed with racial, nationalist, xenophobic, homophobic, religious and other discriminatory motives and pretrial investigation thereof; the practice of judicial examination of the individual elements of criminal acts against personal equality and freedom of conscience; national legislation governing the prohibition of discrimination, and the problems of practical application of the Law on Equal Treatment and the Law on Equal Opportunities for Women and Men. The aforesaid topics under the programme will be introduced to the prosecutors of territorial offices and the training will be conducted by the special prosecutors of the Office of the Prosecutor General as well as by the specialists of the Equal Opportunities Ombudsmen.

24. With a view to combating the recurring manifestations of anti-Semitism, Instruction No 5-N-6 of the Commissioner General of the Lithuanian Police of 28 June 2011 "On Police activities in preventing vandalism and other illegal acts involving the use of Nazi or communist symbols" was drafted, instructing the commanders of territorial police bodies to

identify the locations carrying a high-risk of attempts to perpetrate illegal acts and to regularly collect and analyse public and non-public information on the informal groups and persons promoting illegal acts, their connections and activities. The commanders' attention was also drawn to a more intense cooperation with the representatives of local authorities and communities as well as information exchange with the special services concerned. They have been instructed to organize, at those high-risk locations, targeted public and non-public measures intended to prevent and disclose illegal activities with special attention to maintaining order on specific historical dates or certain religious and cultural holidays.

25. It should be noted that the Police Department under the Ministry of the Interior began organising meetings with the representatives of the Lithuanian Jewish Community to discuss the issues of combating the incitement of intolerance and other manifestations of nationalist hatred as well as the opportunities for mutual cooperation. Two such meetings took place in 2011.

Reply to the issues raised in paragraph 6 of the list of issues

26. In order to inform the public about discrimination in Lithuania and its negative impact on the possibilities for individual groups in the society to actively participate on an equal footing in social activities, as well as equal rights measures, also to raise public tolerance, the Government of the Republic of Lithuania adopted resolution No 317 of 17 April 2009 approving the National Anti-discrimination Programme 2009-2011 (hereinafter – Programme). The Programme involved training on equal opportunities and discrimination issues for institutional staff, civil servants, police officers, judges; as well as discussions with non-governmental organizations working in the field of human rights; and a promotional campaign on multiple discrimination. Official publications publish regular statistics on criminal offences on the grounds of race, ethnicity, religion, language, sexual orientation, tolerance; different events promoting tolerance and cultural awareness were held.

27. In 2011, for the purpose of the Programme, the Ministry of Social Security and Labour announced calls for proposals from non-governmental organizations (associations and public bodies, charity and support funds, working in the field of human rights, and which are not run or owned by the State or local authorities) working in the field of human rights. Notable, that funding was allocated, among others, to the Lithuanian Gay League working in the field of human rights. In 2011, for the purpose of implementation of the measure “Non-formal education of youth associations on non-discrimination, tolerance and respect for human dignity”, methodical guidelines were drawn up: “Educating non-discrimination, tolerance and respect among human beings”, and youth training arranged.

28. Resolution No 1281 of the Government of the Republic of Lithuania of 2 November 2011 approved Inter-institutional Action Plan for Non-Discrimination 2012-2014. The Ministry of Social Security and Labour coordinates the implementation of the Plan, and other institutions, within their competence, carry out the approved measures.

29. The Office of the Equal Opportunities Ombudsperson (EOO) deals with complaints of discrimination based on sexual orientation under the Law on Equal Opportunities. The investigation of the complaint based on sexual orientation led to the proposal to the Ministry of Health to modify the rules for blood donor selection so that the sexual orientation would not be synonymous with risky sexual behaviour, and that all homosexuals would be given an opportunity to become blood donors.

30. In 2011, the EOO also received complaints from transgender individuals. Given the fact that the Office is in regular receipt of written and verbal complaints about discrimination against transgender persons in Lithuania, a proposal was made to consider a possibility and expediency of revising and amending the Republic of Lithuania Law on

Equal Opportunities by bringing in another basis for discrimination – sexual (gender) identity.

31. It should be pointed out that in Lithuania sex-change legislation is non-existent so far, therefore transgender people face various problems and challenges because of their sexual identity as they fulfil their rights and responsibilities.

Educational activities

32. A project carried out by the Equal Opportunities Ombudsperson involved a social advertising campaign with the slogan “Discrimination is harmful to all”. The social advertising (three television adds, and three types of outdoor advertising posters) aims at training target groups in identifying manifestations of discrimination, discriminatory behaviour, in revealing harmful effects of discrimination in society, in fostering respect for human diversity. The three TV ads were run on the National Television and commercial channel LNK between 24 November and 30 December. Outdoor advertising could be seen in public transport stops in 15 cities of Lithuania from 14 November to 6 December.

33. In 2011, the Equal Opportunities Ombudsperson took initiative to hold seven training outreaches to Lithuanian municipalities (Telšiai district, Mažeikiai district, Joniškis district, Šiauliai district, Biržai district, Rokiškis district, Kupiškis district). Advisers discussed topical issues of equality and discrimination with local communities and municipal staff, including sexual orientation, which is still a kind of taboo in peripheries.

34. On 19 October 2010, Member of the Seimas Petras Gražulis tabled a legislative proposal amending articles 224 and 259(1) of the Administrative Code and article 214(30) of the Civil Code. The proposal was returned to the originator, and an improved version was subsequently filed on 22 April 2011. On 28 April 2011, the Seimas approved the proposal and appointed a key committee of Legal Affairs. The Committee requested Government’s opinion on the matter, which turned out to be negative. The Committee on Legal Affairs rejected the proposal on 15 December 2011. The Seimas will have to deliberate Committee’s recommendation regarding the rejection of the proposal in question.

Reply to the issues raised in paragraph 7 of the list of issues

35. Regarding the manifestations of discrimination against the Roma population: the Law on Equal Opportunities provided the opportunity for all individuals to apply to the Office of the Equal Opportunities Ombudsman on the grounds of discrimination and for protection of their violated rights. According to the data of the Office of the Equal Opportunities Ombudspersons, in 2010, complaints filed by the Roma made up 25 per cent of all complaints on the grounds of nationality, race, ethnic origin and national origin. In 2011, only one investigation into discrimination based on the Roma ethnicity was started on the Equal Opportunities Ombudsperson’s own initiative. With a view to developing the Roma’s ability to recognize discrimination and adequately defend their violated rights, the Roma community is provided with annual anti-discrimination training. Training is also available to different target groups, e.g.: prosecutors, employees of prosecution offices and police officers were offered continuous training in the recognition and proper evaluation of the manifestations of national, religious and other related discrimination, hatred and xenophobia; non-formal education on discrimination targeting civil servants and representatives of trade unions was carried out; in 2011, training in the Roma culture and traditions was organized for social workers of the Klaipėda city; education on non-discrimination and equality is included into mandatory professional development programmes of judges. The Action Plan of the National Programme for the Integration of the Roma into Lithuanian Society for 2012-2014, which was approved by order of the Minister of Culture, envisages the organization of training for teachers who are working with Roma children as well as for school communities.

36. In 2008, with a view to developing tolerance and improving the image of the Roma, the Department of National Minorities and Lithuanians Living Abroad organized five one-day anti-discrimination seminars for 118 police officers. These seminars were aimed at making the participants aware of the origins and genesis of racial discrimination, the existing legal framework, skinhead subculture, the Roma national minority and their culture and traditions. The seminars were held in Vilnius, Kaunas, Klaipėda and Šiauliai counties.

37. Also, the Department of National Minorities and Lithuanians Living Abroad, together with the Lithuanian Police Training Centre, organized a seminar for police officers of the Vilnius city aimed at the presentation of the Roma customs and traditions and the discussion of integration issues. The seminar was attended by some 30 police officers.

38. Concerning identity cards for the Roma population: the problems of persons of the Roma nationality related to the absence of identity cards or citizenship are addressed in accordance with the procedure established in the legislative acts of the Republic of Lithuania. Pursuant to article 6 (5) of the Law on Fees and Charges of the Republic of Lithuania, persons of the Roma nationality eligible for social benefit (as well as persons of other nationalities eligible for social support) may be exempt from the State fees and charges and issued identity card or passport free of charge. The Action Plan of the National Programme for the Integration of the Roma into Lithuanian Society for 2012-2014 provides for the organization of two annual meetings with the Roma community for the provision of information on the citizenship of the Republic of Lithuania, issuance (replacement) of personal identity cards, passports and permits of residence in Lithuania. Social employees working at the Roma Public Centre in Vilnius on a regular basis render assistance for the Roma in preparing documents required for obtaining an identity card or passport.

Reply to the issues raised in paragraph 8 of the list of issues

39. Lithuania is the first and so far the only country mentioned in this context which has carried out an extensive parliamentary inquiry into an alleged transportation and detention of persons by the Central Intelligence Agency (hereinafter referred to as "CIA"). The inquiry determined that the conditions for such detention had been created, yet there is no confirmed proof that any such detention actually occurred. In order to further investigate this issue, the Office of the Prosecutor General of the Republic of Lithuania has also conducted a pretrial investigation of the available facts: in order to investigate the circumstances established in the findings approved by Resolution No XI-659 of the Seimas of the Republic of Lithuania of 19 January 2010 on the alleged enablement of the transportation via the Lithuanian territory or bringing into or removal from the Lithuanian territory as well as keeping in the Lithuanian territory of persons detained by CIA of the United States, pretrial investigation No 01-2-00016-10 was launched on 22 January 2010 concerning abuse under article 228(1) of the Criminal Code of the Republic of Lithuania. The pretrial investigation employed all the necessary measures and exhausted all the possibilities of collection of factual data on alleged criminal acts, however no objective data on any illicit transportation or imprisonment of persons detained by the CIA in the Republic of Lithuania were obtained. As a result, a resolution of the Prosecutor of the Organised Crime and Corruption Investigation Department of the Office of the Prosecutor General of 14 January 2011 terminated this pretrial investigation after finding that no acts having the elements of a crime or penal offence were committed. The possibilities of renewing the investigation were considered after October 2011, when the public organizations Amnesty International, Reprieve and the Human Rights Monitoring Institute supplied information on the flights of CIA-related aircraft over the territory of the Republic of Lithuania. This information was evaluated together with the circumstances established during the terminated pretrial investigation and it was found to be non-essential and irrelevant for the decision in the case. The terminated pretrial investigation concluded that there was no evidence of illegal incarceration in Lithuania of any foreign citizens, while the information

supplied by the public organizations did not shed any doubt on that decision. If any new data arrive or new circumstances come to light concerning this issue that would justify the reopening of the investigation, information on further implementation of this recommendation will be presented in another report.

Reply to the issues raised in paragraph 9 of the list of issues

40. Lithuania has established the necessary conditions for protection against unwanted pregnancies and for safe abortions. Our country has a well-developed network of pharmacies offering a variety of modern contraceptives. Since the second report was submitted in 2003, Lithuania has improved the accessibility of emergency contraception. On 18 September 2008, the State Medicines Control Agency changed the qualification of medicinal products *Postinor-2* and *Escapelle* and now these products are available without prescription.

41. The regulation on the termination of pregnancy has not changed in Lithuania since the submission of the second report. Termination of pregnancy is governed by Order No 50 of the Ministry of Health of the Republic of Lithuania of 28 January 1994 on the Procedure for performing the operation to terminate a pregnancy. Under this Order, termination of pregnancy of up to 12 weeks is permitted upon a woman's request. Where the pregnancy is longer than 12 weeks, it may be terminated only if it threatens the woman's life and health.

42. Article 2.25 of the Civil Code of the Republic of Lithuania states that intervention into a human body, removal of body parts or organs is authorized only with the person's consent. Consent to a surgical operation shall be given in writing. Where a person is incapable, such consent may be given by his guardian, however a court authorisation is necessary for castration, sterilisation, abortion, operation, and removal of an organ of an incapable person. Such consent shall not be necessary in emergency cases when trying to save a person's life when it is in real danger and the person is unable to express his will himself. The Ministry of Health does not have data on any forced abortions performed by establishments for persons with intellectual and psychosocial disabilities in violation of the said provision of the Civil Code of the Republic of Lithuania.

Reply to the issues raised in paragraph 10 of the list of issues

43. There is no specific article separately included in the Criminal Code of the Republic of Lithuania (hereinafter referred to as the CC) that would criminalize the act of torture. On the other hand, other CC articles provide for elements of the liability for torture which generally cover the term of tortures stated in the Convention. First and foremost, article 100 of the CC provides for criminal liability for the treatment of persons prohibited under the international law, namely for various acts, including torture, when they are committed intentionally, carrying out or supporting the policy of the State or an organization on a large scale or seeking to carry out systematic attacks against civilians.

44. Moreover, the CC provides for criminal liability for the killing of persons or causing mild or serious injuries, as well as for inflicting physical pain. If the above acts are committed by way of torture (the term is not defined under the CC, however, it is explicitly stated in the judicial practice) they are qualified as offence. In addition, article 145 of the CC establishes criminal liability for terrorisation of a person, item 2 of this article prohibits terrorisation of a person by threatening to blow him up, to set him on fire or to commit another act dangerous to his life, health or property or who systematically intimidates the person by using mental coercion. These acts in principle comprise all the acts mentioned in the term provided in the Convention.

45. Finally, articles 228 and 294 of the CC provide for criminal liability for the abuse of office and the self-willed conduct. Pursuant to article 228 of the CC, a civil servant or a

person equivalent thereto who abuses his official position or exceeds his powers, where this incurs major damage to the State, the European Union, an international public organization, a legal or natural person, is deemed liable for the abuse of office. Pursuant to article 294 of the CC, persons who, by disregarding the procedure established by the law, wilfully exercise an existing or alleged right of their own or another person which is disputed or recognized, though not exercised yet, and incur major damage to the person's rights or legitimate interests shall be deemed liable for the self-willed conduct. Such act committed wilfully by using physical or mental coercion against the victim or a person close thereto shall be subject to a more severe liability and a punishment by imprisonment for a term of up to five years.

Reply to the issues raised in paragraph 11 of the list of issues

46. According to the data of the Departmental Register of Suspected, Charged and Convicted Persons, on 1 January 2012 the preventive measure of detention was applied to 711 persons that were under pre-trial investigation. The duration of the preventive measure of detention is governed by article 127 of the Code of Criminal Procedure of the Republic of Lithuania, which lays down the maximum time limits for detention during pretrial investigation, stating that detention during pretrial investigation may not exceed 18 months in general and 12 months for minors.

47. When imposing or extending detention, the court always evaluates the existence of the grounds for the imposition of detention and specifies the reasons for imposing detention. In the event of an appeal, its decision is reviewed by an appellate court. Article 122(7) of the Code of Criminal Procedure of the Republic of Lithuania permits the imposition of detention only in the cases where less restricting preventive measures are insufficient to achieve the objectives set out in article 119 of the Code. Article 119 of the Code of Criminal Procedure stipulates that preventive measures may be imposed with the aim of ensuring the participation of the suspect, the accused or the convicted person in the process as well smooth pretrial investigation, judicial proceedings and enforcement of the sentence, also to prevent further criminal acts. The court shall impose detention, as the most restrictive preventive measure, in strict observance of the requirements laid down by law, and this helps avoid illicit extension of the detention period.

Reply to the issues raised in paragraph 12 of the list of issues

48. Prosecutor General's Office of the Republic of Lithuania as well as territorial regional and district prosecutor's offices respond to the complaints filed by persons regarding the ill-treatments by law enforcement officials or reports on committed offences, including the ones related to ill-treatments by law enforcement officials in a careful and high-principled manner. This is evident in the number of initiated pretrial investigations: as many as 586 pretrial investigations have been launched since 2007 regarding ill-treatments committed by law enforcement officials, eight persons have been convicted and nine official inspections have been carried out regarding ill-treatment and the excessive use of force by law enforcement officials. A part of criminal cases forwarded to the court have not been settled yet. On 5 March 2010, the Supreme Court of the Republic of Lithuania, during the examination of a cassation appeal of police officer Ruslanas Motko against whom a criminal case has been launched and who has been found guilty by the courts of first instance and appeal pursuant to articles 229 and 137 (1) of the Criminal Code of the Republic of Lithuania, decided to address the Constitutional Court of the Republic of Lithuania.

49. Since 2007 prosecutor's offices have received 1332 personal complaints regarding ill-treatments committed by law enforcement officials. This data reflects all the complaints filed by individuals. It is worth mentioning that on a few occasions several complaints

regarding the ill-treatment or excessive use of force committed by law enforcement officials are filed by the same individuals. For example, out of 36 complaints received by the Šiauliai Regional Prosecutor's Office 13 complaints were submitted by the same person G. K.

50. It should be noted that when examining cases, courts of first instance verify whether the testimony of individuals is grounded and reliable and the norms of criminal proceedings are adhered to during the hearing of the testimony. In the case of the appeal, the above is carried out by courts of appeal, and if the ruling is appealed under the cassation procedure, and there are grounds for the cassation appeal, it is the Supreme Court of Lithuania that examines whether the evidence has been collected in a due manner. Such a system of courts helps ensure a proper implementation of the laws on criminal proceedings. All evidence collected by the law enforcement officials is verified by a court, and the law enforcement officials account for any ill-treatments according to the procedure established by law.

51. Rights and duties of police officers as well as the prohibition to use excessive force or commit ill-treatment are stipulated in article 21 of the Law on Police Activities, part V of the Instructions for the Activities of the Patrol Police, approved by order No 5-V-673 of the Police Commissioner General of Lithuania of 19 July 2011, as well as in operative rules of the territorial police custody establishments, approved by order no 5-V-356 of the Police Commissioner General of Lithuania of 29 May 2007.

52. It is worth mentioning that pursuant to article 62 of the Code of Criminal Procedure, the participant of the proceedings is granted a right to file a complaint against all proceedings committed by a law enforcement official during the pretrial investigation to the prosecutor in charge of the organization of the pretrial investigation. If the prosecutor decides to reject the complaint, such decision may be appealed against to the higher ranking prosecutor. Complaints can be lodged directly or indirectly. Moreover, aside from written complaints, spoken complaints are equally acceptable. Article 63 of the Code of Criminal Procedure provides for analogous provisions regarding lodging complaints against prosecutor's actions to a higher ranking prosecutor and the court. Lodging complaints regarding proceedings is not restricted in any way. Individuals have a right to bring a complaint not only regarding infringements in the proceedings but also regarding actions committed by other law enforcement officials who are not directly involved in the infringement of the provisions of criminal proceedings. Such complaints are examined in all authorities pursuant to the order established by Law on Public Administration. Complaints may be lodged not only to an authority but also directly to a higher institution, ministry or to the Seimas Ombudsmen's Office, which carries out monitoring of human rights in closed establishments restricting freedom.

53. According to the data, provided by the Information Technology and Communications Department under the Ministry of the Interior, in 2010 6 police officers were charged with the suspicion of unlawful use of physical power pursuant to article 228 "Abuse of Office" of the Criminal Code. Two of the police officers have been convicted, pretrial investigations regarding other 2 officers were discontinued as a result of the lack of evidence confirming that the suspects were guilty, and the other 2 pretrial investigations are still underway. In 2011 two police officers were charged with the above suspicions, however, pretrial investigations were discontinued as a result of failure to establish the *actus reus* of an offence.

54. Pursuant to article 5 (3) of the Law on Detention of the Republic of Lithuania (hereinafter referred to as the Law on Detention) and article 7 (1) of the Code of the Execution of Criminal Penalties of the Republic of Lithuania (hereinafter referred to as the Code of the Execution of Criminal Penalties), it is prohibited to torture a person or to treat him in a cruel or degrading manner during the detention of a person or execution of a criminal penalty.

55. Each instance of the use of force against detained or convicted person is written in an official statement, and the case of the use of force is recorded in the supervisory daily work log sheet as well as in the official statement of transfer and receipt of the watch. Each case of the use of force is investigated. If a person suffered injury during the use of force, it is reported to a prosecutor and the Prison Department as soon as possible.

56. The Law on Detention (art. 15) and the Code of the Execution of Criminal Penalties (art. 100), establish the right for detained and convicted persons to address officials of Lithuanian authorities and municipalities, as well as servants, non-governmental organizations and international bodies with proposals, requests (statements), petitions and complaints without hindrance. Such proposals, requests (statements), petitions and complaints of detained and convicted persons shall not be subject to verification (censorship). Therefore, detained and convicted persons are free to choose the body to make a complaint to regarding a potential ill-treatment committed by an officer of a detention establishment. If the body or the official who received a complaint from a detained or convicted person regarding a potential ill-treatment committed by an official of a detention establishment is incompetent to examine such complaint, it shall be forwarded to a competent authority. There are cases where authorities incompetent to examine complaints of detained and convicted persons forward such complaints to the Prison Department.

57. It should be noted that a number of convicted persons resisting to or attacking officers has risen. Such situation has been affected by the increasing number of detained persons and the consequences of the national economic crisis.

58. A remarkable increase in the number of cases of resistance of detained persons in 2010 and the complaints received by the Prisons Department regarding ill-treatment committed by the personnel of detention establishments in 2011 is related to the fact that the majority of persons were complaining about the introduced restriction of maximum allowed weight of possessions of 30 kg, established in item 57 of the Internal Rules of Correctional Establishments. Until then convicted persons were allowed to have an unlimited amount of possessed items in correctional establishments.

59. Pursuant to article 20 of the Code of Criminal Procedure, evidence in criminal proceedings shall be considered documents received pursuant to order established by laws. The evidence of the criminal case shall be examined by judges following their internal conviction, based on a thorough and unbiased examination of all circumstances of the case and pursuant to law. Part 4 of the above article establishes that evidence shall be considered as only legally gathered information that can be verified through the proceeding actions established by the Code.

60. The content of article 20 of the Code of the Criminal Procedure is more explicitly commented in the doctrine of the criminal procedure law, for example, a commentary of the Code of the Criminal Procedure. It is indicated in the commentary that “information cannot be regarded as evidence if it was gathered by the following means: (1) violating principles of procedure, for example, the principles of habeas corpus, proportionality, etc.; (2) acts of violence, threats, other forms of unlawful coercion, etc.

Reply to the issues raised in paragraph 13 of the list of issues

61. On 18 December 2002 the United Nations General Assembly adopted the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, thereby establishing that protection of persons deprived of their liberty against mistreatment can be strengthened by regular visits to places of detention and inspections thereof. Lithuania has not ratified the protocol yet, however, the Seimas Ombudsmen have gained a long-term experience carrying out the monitoring in police

detention centres, interrogation centres and detention places by exercising the right established by Law on the Seimas Ombudsmen to freely enter the premises where persons are detained and meet such persons as well as talk to them. Seeking to extend monitoring of human rights to all confined establishments where persons are detained against their will and in line with the requirements set in the protocol, an initiative to implement a consistent and regular supervision system of confined detention establishments was launched. On 5 November 2008 a new body was set up in the Seimas Ombudsmen's Office, i.e. a group of observers of human rights situation in confined detention establishments, with the primary aim of carrying out preventive monitoring of confined detention establishments, seeking to ensure the protection of rights of persons detained in such establishments. Thus, from then on the monitoring of human rights situation has also been carried out in other places where personal freedom is restricted or can be restricted, namely, psychiatric hospitals, retirement homes, residential care homes, etc.

62. Full attention will continuously be placed on the situation of human rights in detention places so that to reduce to the least possible extent the numbers of infringements of human rights of persons held in confined detention places.

63. Pursuant to article 34 (1.4) of the Law on Arrest, detained persons can be placed to solitary confinement for up to 10 days for violating arrest regime. Article 142 (1.5) of the Code of the Execution of Criminal Penalties provides that convicted persons held in prisons are subject to a penalty, i.e. commitment to a punishment cell for up to 15 days for violating requirements of the penalty regime. Detained and convicted persons charged with the above penalties are isolated in penal isolation wards of the interrogation centres and prison punishment cells.

64. In order to solve the problem of shortage of detention centres, the Government of the Republic of Lithuania approved the Modernisation Strategy of Detention Places and the Plan for Implementing Measures for 2009 – 2017 by its resolution No 1248 of 30 September 2009. The implementation of the strategy involves the construction of modern prisons in Klaipėda, Panevėžys as well as in the surrounding areas of the cities of Šiauliai and Vilnius, through the partnership between the public and the private sectors. The Lukiškės Remand, the Correction Homes of Vilnius, Panevėžys, Marijampolė, and Šiauliai Remand, as well as the Lukiškės Prison are going to be transferred to the newly built locations. The hospital of detention places is going to be moved to Pravieniškės.

65. The following works have been carried out seeking to implement the above strategy:

- Reconstruction works were finalized in the Correction Home in Kybartai following the approved construction technical project. In 2011 LTL 935,000 were used. Additional funds were allocated for the replacement of two boilers and the repair works of the thermal path in 2011;
- Reconstruction works of engineering and technical protection measures were renewed, construction and installation works were carried out in the Kaunas Juvenile Remand – Correction Home, amounting to LTL 1.42 m;
- Reconstruction works of engineering and technical protection measures were carried out in Pravieniškės Correction Home – Remand Prison No. 3, amounting to LTL 1.75 m;
- LTL 300,000 were used in 2011 for the reconstruction of the waste water pump house, necessary for the transfer of the hospital of detention places to Pravieniškės. Taking into consideration the fact that during the implementation of investment projects, a certain amount of resources was saved, LTL 975,000 was additionally allocated in 2011 with the aim of completing construction and installation works of the tuberculosis unit and acquiring furniture and equipment;

- According to the procedure established by Law on Public Procurement, a design company Alytaus PN was selected to prepare a technical project of a dormitory No. 2, survey works of the construction of the building were carried out, topographic images of the territory and the engineering networks were taken, a technical project for reconstruction was drafted and its expertise was performed. LTL 565,000 was used;
- According to the procedure established by the Law on Public Procurement, a design company was selected to prepare a technical project of reconstruction works for the building of health care and discipline group of the Board of the Pravieniškės Correction Home – Open Remand Prison No. 1. The reconstruction works commenced in 2011, the total amount of funds used for the work equals to LTL 598,000;
- Regarding a plot of land in Šiauliai, on 10 February 2011 the council of district municipality approved a detailed plan for the land use change to the construction of penal institution. The Šiauliai Remand is to finalize the land use right agreement and to register it at the Centre of Registers;
- Regarding the transfer of Lukiškės Prison, the Government of the Republic of Lithuania, pursuant to its Resolution No 571 of 18 May 2011, adopted a decision on the Implementation of Partnership Project. The recommendation documents of purchase of the partnership project are to be finalized. After the preparation of the above documents is completed, the Department of Prisons will call for international public tender regarding the implementation of the partnership project;
- A dormitory No. 1 of the Alytus Correction Home was renovated and transformed from the dormitory type to a cell-type accommodation for convicted persons;
- Currently independent consultants of the Ministry of Economy are to finalize feasibility studies “Implementation of Measures 1 – 4 of the Plan for 2009 – 2017 of Implementation Measures under the Strategy of Modernisation of Penal Institutions”, pursuant to the model of cooperation between public and private sectors. The studies cover the transfer of the Lukiškės Remand, the Panevėžys Correction Home, the Šiauliai Interrogation Centre, the Vilnius Correction Home and the Marijampolė Correction Home from central urban areas. A further implementation of measures under the Strategy for Modernisation of Penal Institutions is scheduled, namely:
- Preparation of the tender documentation regarding the selection of the operator of the Pravieniškės Prison construction and the provider of part of services, implementation of public tender procedure;
- The presentation of feasibility studies of the construction of Remand Prisons – Correction Homes of Vilnius, Panevėžys, Šiauliai and Klaipėda, at the Government and the Seimas;
- The completion of reconstruction works for the building of health care and discipline group of the Board of the Pravieniškės Correction Home – Open Remand Prison No. 1
- Continuation of reconstruction works in Pravieniškės, seeking to transfer the hospital of detained places,

66. The Police Commissioner General of Lithuania by Order No. 5-V-473 of 1 July of 2009 approved the Optimisation Programme of Activities of Police Detention Centres for 2009–2015, aiming at establishing the optimal number of police detention centres and creating a network of police detention centres that is effectively operating in the country

and corresponds to the installation and hygiene norms. Key objectives of the programme are to create secure and healthy living conditions for persons held in police detention centres and to form appropriate working conditions for officers employed at these centres. Pursuant to the programme, out of the total number of 46 police detention centres operating in the country until 1 January 2008, 27 police detention centres would remain functioning by 2015. The programme is successfully being implemented. Presently, there are 30 police detention centres operating in the country.

Situation in penal establishments

Cases of the use of special measures (U) and cases of official enquires carried out regarding the use of special measures (OE) in 2007 – 2011

| Establishment | 2007 | | 2008 | | 2009 | | 2010 | | 2011 | | Total | |
|---|------|----|------|-----|------|-----|------|----|------|-----|-------|-----|
| | U | OE | U | OE | U | OE | U | OE | U | OE | U | OE |
| Pravieniškės Correction Home – Open Remand Prison | 71 | 71 | 37 | 37 | 46 | 46 | 56 | 56 | 22 | 22 | 232 | 232 |
| Kaunas Juvenile Remand – Correction Home | 32 | 32 | 40 | 361 | 50 | 521 | 23 | 23 | 31 | 232 | 176 | 164 |
| Lukiškės Remand Prison | 69 | 69 | 68 | 68 | 34 | 34 | 27 | 27 | 37 | 37 | 235 | 235 |

67. On one occasion a report of an official inquiry was drawn up regarding the use of special measures against three persons, and on two occasions, reports of official enquiries made regarding the use of special measures in 2008 were approved at the beginning of 2009.

68. Three reports of official enquiries were drawn up: On one occasion regarding the use of special measures against two persons, on the other – regarding the use of special measures against five persons, and on a third occasion – regarding the use of special measures against four persons.

The number of detained (convicted) persons and their complaints lodged to directors of penal institutions regarding the alleged mistreatment committed by officers of these institutions

| Name | Year | Average number of detained (convicted) persons | Received complaints | Initiated disciplinary cases | Initiated pretrial investigations | Applied disciplinary measures | Other applied measures |
|-------------------------------------|------|--|---------------------|------------------------------|-----------------------------------|-------------------------------|------------------------|
| Pravieniškės Correction House No. 3 | 2007 | 451 | 10 | 8 | 0 | 0 | 0 |
| | 2008 | 257 | 5 | 4 | 0 | 0 | 0 |
| | 2009 | 455 | 17 | 10 | 1 | 0 | 0 |
| | 2010 | 587 | 13 | 2 | 0 | 0 | 0 |
| Kaunas | 2007 | 180 | 0 | 0 | 0 | 0 | 0 |

| <i>Name</i> | <i>Year</i> | <i>Average number of detained (convicted) persons</i> | <i>Received complaints</i> | <i>Initiated disciplinary cases</i> | <i>Initiated pretrial investigations</i> | <i>Applied disciplinary measures</i> | <i>Other applied measures</i> |
|-----------------------------------|-------------|---|----------------------------|-------------------------------------|--|--------------------------------------|-------------------------------|
| Juvenile Remand – Correction Home | 2008 | 186 | 3 | 0 | 0 | 0 | 0 |
| | 2009 | 200 | 3 | 0 | 0 | 0 | 0 |
| | 2010 | 198 | 0 | 0 | 0 | 0 | 0 |
| | 2011 | 193 | 10 | 0 | 0 | 0 | 0 |
| Lukiškės Remand Prison | 2007 | 949 | 33 | 0 | 0 | 0 | 0 |
| | 2008 | 952 | 18 | 0 | 0 | 0 | 0 |
| | 2009 | 945 | 2 | 0 | 0 | 0 | 0 |
| | 2010 | 1018 | 43 | 0 | 0 | 0 | 0 |
| | 2011 | 1018 | 54 | 0 | 0 | 0 | 0 |

Complaints of detained (convicted) persons lodged to the Director of Prison Department regarding alleged mistreatment of the personnel of penal institutions

| <i>Name</i> | <i>Year</i> | <i>Received complaints</i> | <i>Initiated disciplinary cases</i> | <i>Initiated pretrial investigations</i> | <i>Applied disciplinary measures</i> | <i>Other applied measures</i> |
|--|-------------|----------------------------|-------------------------------------|--|--------------------------------------|-------------------------------|
| Pravieniškės Correction House No. 3 | 2007 | 0 | 0 | 0 | 0 | 0 |
| | 2008 | 0 | 0 | 0 | 0 | 0 |
| | 2009 | 1 | 0 | 0 | 0 | 0 |
| | 2010 | 0 | 0 | 0 | 0 | 0 |
| Kaunas Juvenile Remand – Correction Home | 2007 | 0 | 0 | 0 | 0 | 0 |
| | 2008 | 0 | 0 | 0 | 0 | 0 |
| | 2009 | 0 | 0 | 0 | 0 | 0 |
| | 2010 | 0 | 0 | 0 | 0 | 0 |
| | 2011 | 2 | 0 | 0 | 0 | 0 |
| Lukiškės Remand Prison | 2007 | 3 | 0 | 0 | 0 | 0 |
| | 2008 | 1 | 0 | 0 | 0 | 0 |
| | 2009 | 3 | 0 | 0 | 0 | 0 |
| | 2010 | 4 | 0 | 0 | 0 | 0 |
| | 2011 | 9 | 0 | 0 | 0 | 0 |

Pretrial investigations regarding the alleged mistreatment of detained persons, committed by officers
(personnel)

| Launched pretrial investigations regarding the alleged mistreatment of detained persons, committed by officers (personnel) | 2009-{}- | | | | | Results of pretrial investigations |
|--|----------|------|------|------|------|--|
| | 2007 | 2008 | 2009 | 2010 | 2011 | |
| Pravieniškės Correction Home – Open Remand Prison | - | - | 2 | 1 | - | Due to the lack of <i>actus reus</i> of criminal acts, pretrial investigations, launched in 2009, were discontinued (one pretrial investigation was conducted by the Kaišiadorys District Police Unit, while the other, by the District Prosecutor's Office of Kaišiadorys Region. After the District Prosecutor's Office of Kaišiadorys Region completed pretrial investigation, the convicted person was found guilty of a false statement and sentenced to seven months of imprisonment) A pretrial investigation launched in 2010 is still underway (it is conducted by the District Prosecutor's Office of Kaišiadorys Region) |
| Alytus Correction Home | - | - | - | - | 3 | All three pretrial investigations were discontinued as a result of absence of <i>actus reus</i> of criminal acts (they were conducted by the Alytus District Police Headquarters) |
| Marijampolė Correction Home | - | - | - | 1 | - | A pretrial investigations was discontinued as a result of absence of <i>actus reus</i> of criminal acts (it was conducted by District Prosecutor's Office of Marijampolė Region) |
| A Hospital for Detained Persons | 1 | 1 | 2 | - | - | A pretrail investigation, launched in 2007 was discontinued as a result of absence of <i>actus reus</i> of criminal acts (it was conducted by Vilnius District Police Unit No. 3) A pretrial investigation launched in 2008 is still underway (it is conducted by the District Prosecutor's Office of Vilnius Region) Due to the lack of <i>actus reus</i> of criminal acts, pretrial investigations, launched in 2009, were discontinued (one pretrial investigation was conducted by the Vilnius District Police Unit No.3, while the other, by the District Prosecutor's Office of Vilnius City) |
| Šiauliai Remand | - | - | - | - | 1 | A pretrial investigation was discontinued (it was conducted by the District Prosecutor's Office of Šiauliai City) |

| <i>Launched pretrial investigations regarding the alleged mistreatment of detained persons, committed by officers (personnel)</i> | 2009-{}- | | | | | <i>Results of pretrial investigations</i> |
|---|----------|------|------|------|------|---|
| | 2007 | 2008 | 2009 | 2010 | 2011 | |
| Total: | 1 | 1 | 4 | 2 | 4 | In 2007 – one discontinued, in 2008 – one underway, in 2009 – four discontinued, in 2010 – one discontinued/1 underway, in 2011 - four discontinued |

69. According to the available data, pretrial investigations were launched in 2007 – 2011 regarding the alleged mistreatment of detainees committed by officers (personnel) of the Kaunas Juvenile Remand Prison and Correction Home, Kaunas Remand Prison, Lukiškės Remand - Prison, Kybartai Correction Home, Panevėžys Correction Home and Vilnius Correction Home.

Reply to the issues raised in paragraph 14 of the list of issues

70. Establishments for the detention of minors are separate from those for adults (art.70(2) of the Penal Code). In the detention facilities, minors must be kept separately from adults or, where possible, in separate facilities (art. 52(1) of the Penal Code). At the medical facilities of the places of confinement, minors are also kept separately from adults (art. 70(5) of the Penal Code). Detained minors at remand prisons are also kept separately from adults (art. 10(1)(2) of the Law on the Execution of Detention).

71. Detained and convicted male minors are sent to a specialized confinement facility for minors, Kaunas Remand Prison – Correction Facility for Minors. Convicted female minors are sent to Panevėžys Correction Facility, where they serve time separately from adult women.

Reply to the issues raised in paragraph 15 of the list of issues

72. Different legislative acts (the Republic of Lithuania Law on Fundamentals of the Protection of the Rights of the Child (hereinafter referred to as “Law of the Rights of the Child”), the Civil Code of the Republic of Lithuania, the Penitentiary Code of the Republic of Lithuania, the Law on Education, etc.) contain provisions regarding prohibition of violence against children, as well as disciplinary and educational measures, penalties and punishments alternative punitive sanctions for children, still the prohibition of corporal punishment for children is not clearly and unequivocally provided by law.

73. Institution of the Ombudsman for Children Rights supported legislative amendment proposals, participated in their deliberations and provided comments and recommendations on the legislative proposals. The problem of violence against children was also brought up by the Ombudsperson for Children Rights in annual reports to the Seimas of the Republic of Lithuania; problem solutions were presented in the meetings with representatives of law enforcement, child protection authorities and education institutions.

74. Institution of the Ombudsman for Children Rights was involved in the discussion of the draft law on protection against violence in the private sphere, drawn up by the Ministry of Social Security and Labour, and the consolidated draft law on protection of domestic violence, drawn up by the Human Rights Committee of the Seimas, while also providing recommendations and proposals on the mentioned draft laws.

75. The last proposal discussed in the Seimas (or Seimas committee) on legislating a ban of corporal punishment of children in the Law on Fundamentals of the Protection of the

Rights of the Child, was submitted by G. Navaitis on 1 April 2010: the draft law amending articles 2, 4, 10, 43, 49, 53 and 57 of the Law on Fundamentals of the Protection of the Rights of the Child. The draft law proposed to define the concepts of physical, psychological (mental) and sexual violence against the child; set forth an obligation of the parents or other legal representatives of a child, State, local and public authorities, other natural and legal persons to prevent physical, psychological or sexual violence against a child; the prohibition of any violence, torture, injury, degrading child's honour and dignity, cruel treatment; the prohibition to discipline a child with physical, mental or sexual violence, and so on. The draft law is still assumed to be in deliberation, as an opinion from the key committee – Labour and Social Affairs Committee of the Seimas – has not as yet been submitted.

76. On greater child protection, a draft law submitted by member of the Seimas A. Zuokienė on the amendment to article 43(1) of the Law on Fundamentals of the Protection of the Rights of the Child, which has currently entered the deliberation at the Seimas (Seimas Committee), aiming to legalize the prohibition for persons convicted for intentional crimes against the child to work, regardless of the type of the functions, at children-related social, health care, sports, educational institutions or enterprises and organizations, or do work in other institutions, enterprises and organizations directly (permanently or temporarily) involved in children's upbringing, training, care, or protection, or to engage in individual activities, if that activity is directly (permanently or temporarily) related with children's upbringing, training, care and protection.

77. Article 49(2) of the Law of the Rights of the Child provides for disciplinary and educative enforcement measures: criticism, reprimand, severe reprimand, appropriate evaluation of behaviour and other enforcement means, established by laws for breaches of the rules of education (care) institutions. In addition, article 59 of the Republic of Lithuania Law on Education lists obligations of the head of an educational institution, including the requirement to create a healthy and safe environment, free from any manifestations of violence, coercion, and addictions.

78. The main provisions of the child rights protection are contained in the Law of the Rights of the Child. Article 53 of this Law lays down the basic procedural safeguards for children who are suspected of criminal offences. Paragraph 2 clearly states that “a child shall not be subjected to any physical or mental coercion. A child shall not be forced to testify against himself, his parents and other family members and to admit his own guilt”.

79. Applicable laws of the Republic of Lithuania prohibit corporal punishment of any detained (arrested or convicted) juveniles. Limits and grounds for the use of special measures are the same for both arrested as well as convicted juveniles. Special measures in institutions are commonly used in emergency situations and they can lead to serious consequences, therefore the grounds, limits, and procedure of the use of special measures are regulated exclusively by the law. Thus, the prison staff has no right to use force against juveniles arrested or convicted, except cases provided for by the law. Articles 121-123 of the Penitentiary Code prohibit the use of special measures as a straitjacket, rubber sticks, combat wrestling, gas, water jets, service dogs, armoured vehicles and other equipment against juveniles, except when they attack or oppose with force or arms. The law also prohibits the use of firearms against juveniles, except when they attack or oppose with firearms.

Reply to the issues raised in paragraph 16 of the list of issues

80. Data on victims, suspected (accused) perpetrators, and convicted persons filed under article 147 (Trafficking in human beings) of the Penal Code and article 157 (Sale and purchase of a child):

| | 2009 | 2010 | 2011 |
|--|------|------|------|
| Number of victims* | 14 | 3 | 4 |
| Number of suspected (accused) perpetrators * | 11 | 19 | 28 |
| Number of convicted perpetrators** | 13 | 11 | 11 |

* *Data provided by the Departmental Register of Criminal Acts*

** *Data provided by the National Courts Administration*

81. It should be noted that individuals recognized as victims of human trafficking keep contact in criminal proceedings and in trial with a specially appointed police investigator and a social worker. Each victim of human trafficking, as well as his/her relatives, where necessary, are referred to specialized non-governmental organizations.

82. Data provided for by the National Courts Administration shows that as a first instance Lithuanian courts have adjudicated: in 2010 – 7 cases under article 147 of the Penal Code (Trafficking in human beings) and 1 case under article 157 (Sale and purchase of a child); in 2009 – 8 and 0 respectively; in 2008 – 6 and 0; in 2007 – 3 and 0; in 2006 – 7 and 0.

83. Victims of trafficking fall into a category of victims of serious crime and, accordingly, may benefit from additional procedural guarantees. For instance, victims of serious crime under additional conditions (if there is an imminent threat to life, health, liberty or property of a victim or her family member or close relatives and if the evidence provided for by a witness is important in criminal proceedings) may be offered a status of anonymous witnesses during criminal proceedings in accordance with articles 198-204 of the Criminal Procedure Code. Victims of serious crime may also benefit from the provisions of the Law on Protection of Parties to Criminal Proceedings and Operational Activities, Officials of Law Enforcement and Justice Institutions from Criminal Impact. This law under certain conditions may offer physical protection of a victim and its property, temporary placement into safe premises, special data protection rules, change of residence, change of personal identity, plastic surgery, etc.

84. Victims of trafficking may also receive legal counselling and legal representation free of charge in cases provided for by the Law on State-Guaranteed Legal Aid. Legal representation free of charge is provided for persons, whose property and annual income do not exceed the property and income levels established by the Government of the Republic of Lithuania for the provision of legal aid under this Law. Legal representation may also be provided free of charge regardless of the property or income if it is an aggrieved party in the cases concerning compensation for the damage incurred through criminal actions, including the cases when the issue of compensation for damage is heard as part of a criminal case.

85. Child victims of trafficking may benefit from additional procedural guarantees in criminal proceedings, which are foreseen for any child victim or witness in criminal proceedings. Such guarantees include a right to be questioned, as a rule, only once during pretrial investigation, a right to be heard by a pretrial investigation judge, a possibility not to attend trial, a right to be heard without direct contact with an offender, a right to request an assistance of Child right protection services or psychologist at questioning during pretrial investigation or in trial, etc.

86. There are no specific guarantees for women victims in criminal proceedings, save for the right to be examined by a person of the same sex where body inspection or personal search is necessary for criminal proceedings.

Reply to the issues raised in paragraph 17 of the list of issues

87. The right for self-representation or legal aid is ensured by procedural laws (the Republic of Lithuania Law on Civil Procedure, the Republic of Lithuania Law on Administrative Proceedings, the Republic of Lithuania Code of Criminal Procedure, the Republic of Lithuania Code of Administrative Offences). The right to choose counsel is provided for by the Republic of Lithuania Law on the Bar. Article 4 of the Law on the Bar stipulates that every person shall be entitled in accordance with the procedure prescribed by laws to choose a legal aid for counselling, representation, or protection of interests.

88. Freedom to communicate with the appointed lawyer is ensured by the basic principles of the bar: the freedom and independence of a lawyer, client confidentiality, customer loyalty, and avoidance of conflicts of interest and so on. The Law on the Bar provides that a lawyer shall not be prevented from seeing his client in privacy; a lawyer is subject to specific activity guarantees, preventing access to information that constitutes lawyers' professional secrecy (45 and 46).

89. The right to free legal aid is provided for by the Republic of Lithuania Law on State Guaranteed Legal Aid, ensuring the right to State-guaranteed primary and secondary legal aid.

90. Primary legal assistance shall mean the provision of legal information in accordance with the procedure laid down by this Law, legal advice and drafting of the documents to be submitted to State and municipal institutions, with the exception of procedural documents. This legal aid shall also cover advice on the out-of-court settlement of a dispute, actions for the amicable settlement of a dispute and drafting of a settlement agreement. The primary legal aid is available to all legal residents of the Republic of Lithuania, regardless of their financial status (up to one hour of free legal advice, with a possibility to extend the time depending on the nature of the issue). The primary legal aid is provided by municipal employees, or lawyers with whom the municipality has entered into contracts.

91. Secondary legal assistance shall mean drafting of documents, defence and representation in court, including the process of execution, representation in the event of preliminary extrajudicial consideration of a dispute, where such a procedure has been laid down by laws or by a court decision. This legal aid shall also cover the litigation costs incurred in civil proceedings, the costs incurred in administrative proceedings and the costs related to the hearing of a civil action brought in a criminal case. The right to secondary legal aid is granted to those whose financial situation meets the wealth and income levels as established by the Government of the Republic of Lithuania. The Law, however, provides for certain exceptions, when free legal aid may be delivered irrespective of the financial situation (including persons with severe disabilities or recognized as disabled, or retired, who are legally entitled to the aid due to a high level of special needs; also including caretakers/guardians of the above mentioned individuals, individuals with severe mental illness, in cases of their involuntary hospitalization and treatment, and their guardians (caretakers); also including individuals claimed to be incapable in proceedings for the recognition of individual incapacity.

92. Secondary legal aid is managed by the five State-guaranteed legal aid services (institutions under the Ministry of Justice), whose jurisdiction coincides with the district court area. Secondary legal aid is provided by lawyers with whom the service has a contract for the provision of secondary legal aid. State guaranteed legal aid services evaluate an application for a secondary legal aid, and see whether the applicant is eligible to the service of the secondary legal aid, and appoint a lawyer, if needed.

93. In its selection of a lawyer to provide secondary legal aid, the State-guaranteed legal aid service, shall take into account applicant's request for a specific lawyer. An applicant may note this specific request in an application for a secondary legal aid. An applicant may

choose the most acceptable form of communication with the lawyer (orally, at the lawyer's office, in writing, by e-mail).

94. In collaboration with non-governmental organizations, persons with visual, hearing, speech disorders must be ensured translated communication with legal aid provider. In order to ensure that persons with reduced mobility had access to free legal aid, it is resorted to the services of social workers, and, if necessary, the lawyer meets with the client in an environment that is convenient for the client.

Reply to the issues raised in paragraph 18 of the list of issues

95. Privacy of personal correspondence, personal and family life in Lithuania is protected by laws (Civil Code, the Republic of Lithuania Law on Legal Protection of Personal Data and other laws). The Law on Legal Protection of Personal Data is the most important, aiming to protect the human right to privacy of personal data. The implementation of the Law is monitored by an independent supervisory body: the State Data Protection Inspectorate, which investigates complaints of privacy violations in handling personal data.

96. In order to ensure the human right to privacy with regard to procession of personal data, as well as the right to private life provided for in article 22 of the Constitution of the Republic of Lithuania, the State Data Protection Inspectorate (hereafter referred to as the Inspectorate) carries out functions assigned to it by the law on Legal Protection of Personal Data and the Law on Electronic Communications: examine complaints, requests and reports, check the lawfulness of processing personal data, and provide consultations on data privacy and protection, prepare methodological recommendations and make them public on the Internet and so on. Having established violation, the Inspectorate shall draw up protocols of administrative offences, provide instructions or in case of defects – recommendations. Analysis of appeals has revealed that 2009 is not exclusive in terms of the number of complaints; which is increasing every year. In 2008, the Inspectorate received 153 complaints (115 examined), in 2009 – 201 (129), in 2010 – 270 (270), in 2011 – 238 (256), on the other hand, the number of instances where the Inspectorate draws up protocols on administrative liability following the establishment of violations of the Law on Legal Protection of Personal Data or the Law on Electronic Communications. A different trend has been observed: in 2011 compared with 2010, the number of cases with no established violations has reduced. For example, in 2009, 27 protocols of administrative violations were filed (21 per cent from the total number of complaints) and in 54 cases (42 per cent from the total number of complaints) with no violations established; in 2010, 41 protocol (15 per cent) and in 81 cases (30 per cent) no violations were established; in 2011, – 23 protocols (9 per cent), in 56 cases (22 per cent) violations were not found.

97. A growing number of complaints largely resulted due to amendments to the Law on Legal Protection of Personal Data that came into force on 1 January in 2009, when video surveillance came to be regulated by special provisions. It became easier for residents to defend their right to privacy in video surveillance (the number of complaints due to video surveillance in 2009 increased by 4 compared to 2007.)

98. The analysis of complaints examination and representative survey data showed that the number of those aware of the right to personal data protection has increased in the last years in Lithuania from 52 per cent in 2006 to 74 per cent in 2010. The number of individual counselling is also on the rise (about 1 thousand beneficiaries), there are more newsletters, recommendations instructing on submission of a complaint, one-stop shop is applied.

99. According to the inspectorate, better informed residents have improved opportunities to defend their rights, and the increasing number of complaints is not

something to be concerned about, however, the reducing number of cases where no violations are found during the check of data managers is a cause for concern. The Inspectorate takes active steps: holds public consultations, provides individual advice to data managers (2 thousand consultations per year). The Inspectorate carried out an active awareness-raising campaign, providing press releases, preparing newsletters, organizing seminars and conferences on data protection issues. Also, meetings were held with data managers (75 such events in 2011) to update them on data protection, to address emerging challenges, and to encourage compliance with regulatory requirements. This kind of activities was effective, as it had a direct relation to a decreasing number of substantiated complaints, for instance in 2011, substantiated complaints were expected to comprise 50 per cent of all complaints, but it appeared that the result was better, namely 46 per cent.

Reply to the issues raised in paragraph 19 of the list of issues

100. Articles 10 and 11 of the Republic of Lithuania Law on Religious Communities and Associations lay down legal criteria for granting legal entity rights to the traditional religious communities and associations, as well as non-traditional religious communities and associations. It is notable that members of all religious groups, both registered and unregistered, can fully enjoy freedom of religion and belief as stipulated by international instruments. Specific criteria relating to the number and citizenship of the members of a religious community apply only for non-conventional religious communities. Article 11 of the Law on Religious Communities and Associations provides that a religious community may be established by 15 adults, who are citizens of the Republic of Lithuania. This type of criterion is not applicable in case of Lithuania's traditional religious communities under article 10 of the same Law. The Ministry of Justice received no complaints about excessiveness of the requirements for the establishment of non-traditional religious communities, nor any complaints about possible restriction of opportunities arising from the application of the mentioned criterion for religious communities to recover property held before the Soviet occupation. Still, it should be pointed out that a possibility is being considered of withdrawing the citizenship requirement for non-traditional religious community founders, replacing it with the requirement of permanent residence in Lithuania.

Reply to the issues raised in paragraph 20 of the list of issues

101. Protection of human rights is a priority area of the activities of the State which is understood as positive activities of the State resulting in the creation of the entirety of various human rights protection mechanisms which include the establishment of human rights protection institutions as well as identification of competencies thereof and granting of powers thereto. Since human rights may also be violated in the media, protection of human rights therein has been assigned to the Inspector of Journalist Ethics.

102. The procedure for the collection, preparation, publication and dissemination of public information as well as rights, obligations and responsibility of producers, disseminators and participants of public information, journalists and agencies regulating their activities are provided for in the Law on Provision of Information to the Public which also defines the competence of the Inspector of Journalist Ethics and the office headed by the Inspector. This law defines the main public information principles and the requirement to producers and/or disseminators of public information to adhere to these principles in their activities. According to these principles, information published in the media must be true, accurate and unbiased and, in making it public, human rights must not be violated and norms (standards) of journalists' professional ethics must be observed. The Inspector's responsibility is to monitor that the balance is not upset between the public interest, namely, the right to receive accurate, objective and unbiased information, and protection of other human rights (honour and dignity, privacy) and that producers and disseminators of public information are honest and responsible in using their right to disseminate information and

ideas. According to the law, the Inspector is assigned not only with supervising the observance of the main public information principles and the requirements of protection of human rights but also with powers to respond to violations of the Law on Provision of Information to the Public as well as other laws and legal acts regulating the area of public information, such as making decisions of a warning or obligating nature; imposing administrative liability; or submitting to State institutions proposals on improvement of the implementation of laws. On the other hand, while performing the functions assigned by the law, the Inspector may not take actions which would be understood as direct interference into the activities of the media (censorship), may not prohibit these activities or restrict them in any way, or may not demand the disclosure of the information source.

103. The object of supervision of the Inspector is the information made public (in the media) which possibly violates certain rights of the individual. Taking that into account, the Inspector's activities include: (1) investigation of violations on the basis of complaints of the persons concerned; (2) investigation of violations *ex officio* by carrying out monitoring of public information. According to the procedure established by the Law on Provision of Information to the Public, the Inspector examines complaints of the persons concerned regarding: (1) their honour and dignity offended in the media; (2) violation of their right to protection of private life in the media; (3) violation of management of their personal data in the media. In addition to that, according to the Law on the Protection of Minors against Detrimental Effect of Public Information, the Inspector examines complaints regarding violations of this law, namely, the Inspector decides whether information which has been made public complies with the criteria of the law on the basis of which it may have an adverse effect on minors. On average, 70–80 per cent of violations of this law are investigated by the Inspector of Journalist Ethics on the Inspector's own initiative on the basis of experts' conclusions regarding detrimental effect of public information on minors.

104. Since 2006, the functions of the Inspector and of the office headed by the Inspector have been expanded by transferring some of the functions of the Commission for Journalists' and Publishers' Ethics, which is a self-management institution of producers and disseminators of public information: (1) as of 1 September 2006, the Inspector has a function of categorising press publications, audio-visual works, radio and television programmes or separate programmes as well as other means of the media and/or their content as information of erotic, pornographic and/or violent nature; (2) as of 1 January 2010, the Inspector has a function of identifying whether information made public in the media encourages disagreements with regard to gender, sexual orientation, race, nationality, language, origin, social status, faith, beliefs or convictions. These functions are performed with the help of experts. In addition to these functions, the Inspector monitors public information in the media, except for radio and television programmes.

105. Considering the procedure for examination of complaints of the Inspector of Journalist Ethics in the context of the International Covenant on Civil and Political Rights, article 19, it should be noted that it is related to restrictions on the use of freedom of self-expression established in article 19, paragraph 3, of the Covenant because it establishes a mechanism which ensures compliance with the special obligations of the producer (disseminator) of public information and responsibility against the society as well as helps to ensure the balance between public interests which are in continuous conflict, namely, the right to receive accurate, objective and unbiased information and protection of other human rights (honour and dignity, privacy).

106. It should be noted that the object of human rights protection which is realized through the activities of the Inspector of Journalist Ethics and the complaints examination procedure falls into the list of objects provided in the Covenant, article 19, paragraph 3, since the object of protection is: (1) a person's honour and dignity; (2) a person's privacy (personal data); (3) minors' interests; (4) public morals. It is also noteworthy that the

Inspector examines complaints in an out-of-court manner which reduces the number of court procedures and provides an opportunity to protect a person's rights violated in the media without initiating court or criminal procedures, or other procedures which particularly restrict the use of the freedom of self-expression.

Protection of a person's honour and dignity as well as privacy

107. Considering the profile of complaints submitted to the Inspector of Journalist Ethics in 2006–2010, it should be noted that the Inspector may be addressed by all persons concerned who believe that their rights (honour and dignity; privacy; personal data) or the main public information principles have been violated in the media. It is noteworthy that the definition of the media established in the Law on Provision of Information to the Public includes all means, forms and methods of the media and self-expression inter alia those which are discussed in the Committee's general comment No. 16.

108. The majority of complaints are submitted to the Inspector regarding the information published in press publications. However, as the development and use of the internet increase, the use and influence of the electronic media also increase. Therefore, the number of complaints regarding the information published in printed publications has been on the decrease while the number of complaints regarding the information published on the internet has been on the increase. In 2006, the share of complaints regarding the internet content made up only 3 per cent of the entire number of complaints while in 2010 this share amounted to 37 per cent of the total.

| | 2006 | 2007 | 2008 | 2009 | 2010 |
|--------------------------|------|------|------|------|------|
| Complaints submitted | 194 | 277 | 237 | 215 | 183 |
| Press | 149 | 186 | 120 | 130 | 86 |
| Television | 36 | 58 | 49 | 48 | 41 |
| Radio | 1 | 2 | 1 | 1 | 1 |
| Internet | 6 | 36 | 65 | 65 | 67 |
| Other means of informing | 2 | 10 | 10 | 12 | 4 |

109. The profile of complaints for 2006–2010 shows that, for the Inspector of Journalist Ethics, the most relevant and problematic questions are related to the media's transparency and objectivity.

110. Transparency in the media is not limited to the obligation of making public the information about the owners of a means of the media, transparency is also related to the requirements of impartiality and objectivity which must be observed in a means of the media while spreading information.

111. The obligation of the producer (disseminator) of public information of informing the public about the questions of concern to the public is not limited, either, to making public the information gathered or submitted by information sources, it also includes critical assessment of such information as well as abstention from spreading ungrounded or unverified accusations which are not based on facts. If the producer (disseminator) of public information informs about a person's actions which are an object of pretrial investigation, the producer (disseminator) of public information must abstain from early assessment of the described person's guilt.

112. The European Court of Human Rights has noted that according to the Convention for the Protection of Human Rights and Fundamental Freedoms, article 10, the guarantee of

freedom is granted to the press provided that it acts seeking to present information which is trustworthy as well as with respect to the requirements of journalists' professional ethics (ruling of the European Court of Human Rights dated 14 June 2007 in the case *Hachette Filipacchi Associes v. France*).

113. The most common violations of the Law on Provision of Information to the Public established in the decisions of the Inspector of Journalist Ethics are as follows: non-observance of the main principles of public information, disregard of the requirements of the objectivity of information and the diversity of opinions as well as violation of the presumption of innocence. Though the number of complaints fluctuated in 2006–2010, the ratio of violations has remained similar. Besides, a part of complaints submitted to the Inspector are recognized as ungrounded.

| | 2006 | 2007 | 2008 | 2009 | 2010 |
|--|------|------|------|------|------|
| Violations of honour and dignity | 30 | 23 | 20 | 24 | 12 |
| Violations of privacy | 22 | 11 | 11 | 13 | 9 |
| Other violations (of the presumption of innocence, diversity of opinions, objectivity, etc.) | 23 | 170 | 86 | 202 | 107 |
| Violations have not been identified | 121 | 48 | 44 | 34 | 35 |

114. Most frequently, complaints are recognized as ungrounded if it is established that a public person or a public person's activities were criticized in a means of the media in an honest manner (in the case of protection of a person's honour and dignity); if inaccuracies of the information made public may be justified due to an honest error while the journalist did everything what he or she should and could have done in a specific situation (in the case of spreading accurate, true and impartial information); or if the interest of the public to know the information about a person's private life was more important than protection of the person's privacy (in the case of protection of a person's privacy).

Protection of minors against detrimental effect of public information

115. According to the Law on the Protection of Minors against Detrimental Effect of Public Information, the Inspector of Journalist Ethics shall be entitled to decide, on the basis of expert conclusions, whether specific information has a detrimental effect on minors, whether its dissemination has to be restricted or prohibited, and whether dissemination thereof does not violate the criteria set down in the Law. The Inspector can carry out supervision of the Law *ex officio*. The Inspector can impose administrative measures to producers (disseminators) of public information for violations of the Law (a warning or a fine from LTL 500 to LTL 7,000). However, these measures are *ultima ratio* in the practice of the Inspector, and application thereof complies with general comment No 21 of the United Nations Human Rights Committee, which provides an assessment of the ratio between liberty and its restriction (a rule and an exception).

116. In 2010 there was 20 per cent less of the restricted information with a detrimental effect on minors recorded; however, there was 24 per cent more of the information that was prohibited to be publicly disseminated, as compared to 2009. In 2007, 31 per cent of all the recorded violations took place on the internet, while in 2008 this share amounted to 50 per cent, in 2009 to 62 per cent, and in 2010 to 58 per cent.

117. Analysis of the statistical data about the information that was prohibited to be publicly disseminated in the period 2009–2010 shows that the problem of publishing personal data of minors remained topical in 2010: 43 cases were recorded (in 2009 there were 34), where personal data of minors, who were suspected of having committed a crime,

who were inditees, defendants, convicts or victims of criminal acts or other violations of law, was published and could reveal their personal identity; in 74 cases (in 2008 there were 48), dignity of minors was degraded or their interests were infringed by providing data about the minors. Another issue was related to the dissemination of information inciting suicide, which has to be restricted in compliance with the Law. In 2010, 22 cases of dissemination of information inciting suicide were recorded (in 2009 there were 15). Although this type of information was disseminated less often in 2007 (4 cases), as of 2008 (17 cases) dissemination of this category of negative information has been on the rise in the media.

118. Decisions adopted by the Inspector are binding and can be appealed against the court. On average, only approximately 22.7 per cent of decisions adopted by the Inspector and appealed against the court are recognized as unfounded, and 9.1 per cent of decisions are partially modified and remain valid by the effective judgement of the court. Non-compliance with the decisions adopted by the inspector incurs administrative liability.

Incitement (instigation) to hatred in the media

119. Incitement to hatred in the media (it is especially widespread on the internet) is not compatible with the expression of freedom of self-expression and public information principles. According to paragraph 4 of article 24 of the Constitution of the Republic of Lithuania and article 170 of the Criminal Code of the Republic of Lithuania, this constitutes a criminal act. Point 3 of paragraph 1 of the Law on Provision of Information to the Public states that it shall be prohibited to publish information in the media which instigates war or hatred, sneer, scorn, instigates discrimination, violence, harsh treatment of a group of people or a person belonging to it on the basis of age, gender, sexual orientation, ethnic origin, race, nationality, citizenship, language, origins, social status, faith, beliefs, standpoints or religion. The Inspector of Journalist Ethics shall supervise the compliance with the provisions of the Law on Provision of Information to the Public and this prohibition.

120. With the growing number of statements and anonymous comments inciting to hatred and violence in the media, especially on the internet, on 15 July 2009 the Seimas of the Republic of Lithuania adopted a Law No XI-348 Amending articles 46, 49, and 50 of the Law on Provision of Information to the Public, which, as of 1 January 2010, authorized the Inspector of Journalist Ethics, on the basis of expert conclusions, to establish whether public information published in the media incite to hatred on the basis of gender, sexual orientation, race, nationality, language, origins, social status, faith, beliefs, or standpoints. The Law had authorized the media self-managing body, the Commission of Journalist and Publisher Ethics, to perform this function by 1 January 2010.

121. Although the Law on Provision of Information to the Public provides for a possibility for the Inspector of Journalist Ethics to ex officio initiate investigation and to appeal to competent State institutions with regard to the noticed violations of law (also, in cases of incitement to hatred), it is on the contrary in practice, for it is the Inspector of Journalist Ethics that is appealed to with a view to trying provide conclusions as to whether public information published in mass media incites to hatred on the basis of gender, sexual orientation, race, nationality, language, origins, social status, faith, beliefs, or standpoints.

122. To summarize expert conclusions on incitement to hatred in mass media, which were submitted by the Inspector of Journalist Ethics, it should be noted that competent institutions had submitted 113 applications in the pretrial investigation proceedings to the Office of the Inspector of Journalist Ethics with a view to trying to establish whether public information published in mass media had incited to hatred on the basis of gender, sexual orientation, race, nationality, language, origins, social status, faith, beliefs, or standpoints. The Prosecutor General's Office of the Republic of Lithuania (36 cases), the Lithuanian

Criminal Police Bureau (32 cases), and Vilnius County Police Headquarters (18 cases) applied to the Inspector of Journalist Ethics most often.

123. During 2010–2011 experts from the Office of the Inspector of Journalist Ethics processed 110 applications from the afore-mentioned bodies and submitted conclusions with regard to 767 comments published on the internet, three publications, two video clips, one questionnaire, eight small printings (calendars, cards), eight posters, eight song lyrics, two articles (in the press), and one television broadcast.

124. The highest share of incitement to hatred, instigation to violence and sneering was on the basis of sexual orientation (81 per cent) and origin and nationality (24 per cent). Most often, comments inciting to hatred, physical thrashing, or violent behaviour, were published on the popular Internet portals www.delfi.lt and www.lrytas.lt. In consideration of the above, a live conference-discussion “On words and their meaning in the expression of hatred” was held in cooperation with the internet portal “Delfi”, which was aimed at raising awareness among the public with a view to reducing instances of incitement to hatred on the internet (“Delfi” portal features the highest number of these instances).

Reply to the issues raised in paragraph 21 of the list of issues

125. Article 8 of the Republic of Lithuania Law on Assembly (hereinafter referred to as the Law) specifies a complete list of prohibited assemblies. Article 11(1)(2) of the Law provides for a complete list of grounds prohibiting an assembly to be held in a notified venue, time and form. Municipal examination of notices is guided only by the restrictions provided by the Law in relation to the right of peaceful assembly, including criteria for prohibiting an assembly. An assembly may be prohibited in cases of potential threat to State or public security, public order, health or morals or the rights and freedoms of other individuals (art. 11(1)(2) of the Law). For instance, in case of national mourning or when other assembly has already been authorized for the same time and same venue.

126. On 19 February 2009, Vilnius municipality received a request from the Lithuanian National Centre for a permission to hold a march from Sereikiškės park to the entertainment and business centre Forum Palace at 16.00-17.00 p.m. on 11 March 2009. No grounds for refusal under article 11(1)(2) of the Law had been found, nor features of unlawful assembly under article 8 had been established. Until the day of the march, there had been no information on planned confrontations or threat to public order during the march. Therefore, the Lithuanian National Centre was authorized under Order No 40-295 of the Director of the Municipal Administration of 27 February 2009 to hold a march on 11 March 2009 as per proposed route, and was issued permission (authorisation) for an agreed venue, time and form of the public event (assembly).

127. The notice of the Human Rights Monitoring Institute (HRMI) and the Centre for Equality Advancement (CEA) about “Peaceful assembly and rally on 11-03-2009 against racism and xenophobia – for tolerance and non-discrimination” was registered by the municipality on 4 March 2009, i.e. after the Lithuanian National Centre had been granted authorization for an agreed venue, time and form of the event (assembly) to hold a march. HRMI and CEA requested permission to hold an assembly and march from the Cathedral Square, Gediminas Avenue to the Seimas of the Republic of Lithuania at 11.15 a.m. on 11 March 2009. The meeting of the Commission for Coordination of public events (assemblies) (hereinafter - Commission), held on 6 March 2009, recommended that the organizers of the march should change the time and date of the march, as their requested time and date coincided with another event marking Lithuania’s Independence Day, and which had already been authorized to be held in agreed venue, time and form. The organizers, having regard to the Commission’s recommendations, submitted a letter stating the modified time of the march: 14.00-15.00 p.m., 11 March 2009. According to the minutes of the Commission meeting of 9 March 2009, made following an examination of

the modified request, the meeting took into consideration the arguments of a police officer who participated in the meeting, as well as intelligence information gathered on planned confrontations and other unlawful actions during the march “Against racism and xenophobia – for tolerance and non-discrimination” to be held on 11 March, also the fact that due to a number of events taking place on 11 March the police (according to the police representative) will not be able to properly maintain public order during the march, which may pose threat to public safety. The Commission proposed to change the date of the march, but following the refusal of the organizers, decided to prohibit the march and refuse issuing permission for an agreed venue, time and form. The above mentioned decision was made in accordance with article 11(1)(2) of the Law, providing for a refusal to issue a permission, if an assembly may pose threat to public safety, public order, health or morals or the rights and freedoms of other individuals.”

128. In 2011, in accordance with the Law, the Vilnius Municipality issued 58 permissions for agreed venue, time and form of an assembly, and refused to issue six permissions for agreed venue, time and form of an assembly.

129. On 11 August 2011, HRMI and CEA requested Vilnius City municipality to issue permission for an assembly and a march to be held on 11 March 2012. The permission for the march was issued on 29 November 2011.

Reply to the issues raised in paragraph 22 of the list of issues

130. Provisions regarding the rights and legitimate interests of children deprived of their family environment are set forth in relevant laws and secondary legislation (the Republic of Lithuania Law on Fundamentals of the Protection of the Rights of the Child, the Civil Code of the Republic of Lithuania, the Republic of Lithuania Law on Foster Families, Child Care Regulation, Regulations of Temporary Child Custody (Guardianship), the Joint State and Municipal Child Care Home Regulations, Description of Property Management of Children in Custody (guardianship) of a Foster Family, Recommendations for Child Custody (guardianship), property management and acceptance of inheritance, the Requirements for a Temporary Visit of a Child from Custody (guardianship), etc.).

131. The Republic of Lithuania Civil Code regulates the institute of minor’s custody (guardianship). The Code provides for an obligation by training, education, health care, police and other enforcement personnel as well as other persons having information on minors deprived of parental care to immediately notify the Children’s Rights Protection Section located in child’s or the mentioned person’s place of residence about the need to protect the rights and interests of a minor.

132. The list of children in need of custody (guardianship) is compiled and handled by the local Children’s Rights Protection Section, which has to provide a child in need of custody (guardianship) with a temporary care within three days after the information about a child who needs custody (guardianship) was filed.

133. Temporary custody of the child (guardianship) is established by order of the director of municipal administration under recommendation of the local Children’s Rights Section. Permanent custody of the child (guardianship) is established by court order according to the request of the municipal Children’s Rights Protection Section or the prosecutor’s instruction.

134. Child custody (guardianship) is arranged and monitored by the territorial Children’s Rights Protection Section in collaboration with other institutions and organizations dealing with child protection. The child’s custodian (guardian) may be excused from his duties, if he is unable to perform his duties due to important reasons, or he may be suspended from his duties, if he fails to ensure rights and interests of the minor, and uses his rights for egoistic purposes. The Code of Administrative Violations provides for administrative

responsibility of child's custodian (guardian) for neglect of his duties or acting against the interests of the child. The Criminal Code provides for criminal responsibility of child's custodian (guardian) for the abuse of their rights or duties.

135. The Institution of the Ombudsman for Children Rights is responsible for monitoring and overseeing the implementation of national and international legislation on the protection of children's rights and legitimate interests in Lithuania. The above function effected through investigation of complaints submitted by individuals, or investigations on Ombudsperson's own initiative, as well as evaluation of the general situation as regards the protection of the rights and interests of children deprived of parental care, and analysis of relevant legal regulation and its practical implementation.

136. The Institution of the Ombudsman for Children Rights periodically visits child care facilities and meet with the children, the administration and the founders, even without filed complaints or other reports about possible violations of the rights of the children. The Ombudsperson discusses issues of rights protection of children in care institutions with municipal administrations, asking to look for custody alternatives (thus providing children deprived of parental care to grow in a family or family environment). The Institution of the Ombudsman for Children Rights made studies (situation analysis) related to:

- (1) County and municipal child care homes (in 2005);
- (2) Issues and trends in adoption and custody (2005-2006);
- (3) The principle of keeping together brothers and sisters, establishing custody (guardianship) from 2006 to 2007 for children deprived of parental care (in 2008);
- (4) Sexual violence against children in child care and special education institutions (2008);
- (5) Practical problems as regards the enforcement of the Foster Family Law (2010);
- (6) Arranging for care of children under 3 (in 2011).

137. The study of the above issues has led to proposals to the competent State and/or municipal authorities (the Seimas of the Republic of Lithuania, the Government, the Ministry of Social Security and Labour, etc.). These studies did not relate to possible criminal offences, so the findings and proposals were not filed with the prosecution. The study on the sexual violence against children in child care institutions was based on anonymous surveys, which enabled establishing the scale of the phenomenon, rather than identifying individual cases.

138. The Institution of the Ombudsman for Children Rights will notify the prosecutor's office on any reports about alleged constituent elements of the offence (when it is possible to identify the victim or an alleged perpetrator), and the prosecution decides on the necessity of pretrial investigation. Prosecution/or other pretrial agencies, assess the situation and decide about the representation of a child in court, it also informs the Child Rights Protection Sections about children victims of criminal acts, who together with the social partners assess the need for provision of assistance to the crime victims.

Reply to the issues raised in paragraph 23 of the list of issues

139. There are no specialized juvenile judges in the courts of the Republic of Lithuania.

140. In its resolution No. 1070 of 2 September 2009, the Government of the Republic of Lithuania approved Programme for Juvenile Justice 2009-2013 aiming, among other things, to ensure professional development and regular training of juvenile justice officials and other related professionals. With a view to implementing the measure of "raising

professional development of pretrial judges, judges hearing juvenile and family cases” as well as the measure of “arranging training for the police, correctional and custodial officers, prosecutors, judges, working with minors, the Training Centre of the National Courts Administration carries out annual training under Juvenile Justice programme, involving local and county court judges, prosecutors, police officers from county police service, officers from correctional inspections under the Prison Department. With reference to specialized courts and judges, www.teismai.lt has a list of judges hearing family and juvenile cases:

http://www.teismai.lt/dokumentai/teiseju%20sarasai/nagrinejanciu_nepilnameciu_ir_seimos_bylas_teiseju_sarasas.doc

Reply to the issues raised in paragraph 24 of the list of issues

141. Following reorganization of Department of National Minorities and Lithuanians Living Abroad under the Government of the Republic of Lithuania, the Ministry of Culture took over, as of 1 January 2010, coordination of matters related to the protection of national minorities and implementation of measures of the National Minority Policy Development Strategy until 2015 (hereinafter, the Strategy), approved by Resolution No 1132 of 17 October 2007 of the Government of the Republic of Lithuania on the Approval of National Minority Policy Development Strategy until 2015.

142. In 2010, LTL 1,893,312.40 (out of this sum, the EU funds constituted LTL 1,200,638) was allocated for the implementation of the plan of measures of the Strategy. The Ministry of Culture, the Ministry of Education and Science, the Ministry of Social Security and Labour, the Ministry of Foreign Affairs, the Office of Equal Opportunities Ombudsperson, and the State Lithuanian Language Commission have carried out the following measures for this amount: 79 events aimed at fostering national minority culture and traditions were organized; 10 anti-discrimination events were organized; 8 meetings with cultural and public figures were held; 20 art exhibitions were arranged; 1 festival of national minorities was organized; an international 3-day folklore festival was organized; a multi-cultural 8-day camp for representatives (children, youth and adults) of 150 national minorities was organized.

143. Training was organized for national minority representatives: State language courses were organized to national minority representatives (in 2010, 39 individuals completed State language courses organized by the House of National Communities); general programmes for secondary education in the Polish and Russian languages were drafted; Polish and Russian language Olympiads were organized; management courses for managers of national minority non-governmental organizations (NGOs) were organized (29 individuals participated); trainings for heads of NGOs working with the Roma were organized. Also information was regularly provided to national minority NGOs on prospects to get support for their activities (240 consultations in total).

144. While implementing measure “Development and Implementation of Methods for Language Teaching, Entrepreneurship Development, and Innovative Education” of the Human Resources Development Operational Programme subsidized by the EU structural funds, two projects were carried out: “Intercultural Skills Development of Teachers, Pupils, Parents and NGO Representatives” and “Intercultural Dialogue: a Pledge for the Future for the Society”. Also, a Polish textbook for the 7th grade was published and a national Olympiad of the Lithuanian language was organized.

145. The Office of Equal Opportunities Ombudsperson organized 20 trainings for the Prison Department officers, five trainings for the police officers, and two training projects for the public servants.

146. In 2010 the following information dissemination measures were carried out: Forty information announcements on national minority traditional culture events were made; the Lithuanian National Television broadcasted programmes for national minorities: “Trembita”, “Vilniaus albumas” (Vilnius Album), “Rusų gatvė” (the Russian Street), “Menora” (Menorah), and “Vilniaus sąsiuvinis” (Vilnius Notebook); a Lithuanian language overview of each workday news was carried out for the public television “Russkaja volna” of the multicultural Visaginas city; 4 publications of National Minority News newsletter were drafted and disseminated; a brochure on national minorities in Lithuania was published in the Lithuanian, English, French, and Russian languages

147. In 2011 the Ministry of Culture continued implementation of aims and objectives set down in the Strategy while pursuing specific measures in compliance with the Programme for National Minority Integration into the Lithuanian Society while Preserving Identity Thereof. LTL 1029 thousand were allocated for the implementation of measures of the Programme; the Ministry of Culture procured services for LTL 719 thousand out of this amount, in compliance with the public tender procedure, from the public institution House of National Communities, public institution Roma Community Centre, public institution Kaunas Cultural Centre of Various Nations, and public institution Lithuanian Ethnic Minority Folklore and Ethnography Centre. In 2011 more than 100 events of national minority NGOs at national, regional and local level were organized (evenings, concerts, presentations of publications, round-table discussions, national minority meet-the-artist evenings, talks, etc.). The events were aimed at dissemination of national minority culture, fostering of traditions thereof, and national minority integration into the society of the country. It is especially worth noting commemorations of the International Human Rights Day, International Day for the Elimination of Racial Discrimination, International Roma Holocaust Remembrance Day, and International Day for Tolerance. With a view to promotion of public tolerance and inter-national understanding and respect, the Ministry of Culture announced a competition for an award “For National Tolerance” in 2011. Nine nominations were submitted to the competition, featuring works published or broadcasted in national and regional media of Lithuania (press, radio, television, and internet). The award “For National Tolerance” was granted to RU DELFI editor and journalist Natalija Zverko.

148. Concerts and as many as four festivals of ethnic folk groups representing Lithuania’s minority culture were held in Lithuania and abroad. There were twenty exhibitions of art displaying oeuvre of artists, photographers and students of ethnic communities; six meetings between members of ethnic communities and Lithuanian and foreign cultural and public figures; and ten meetings of the Ethnic Communities Council. A scientific-practical conference on “Overcoming the Historical Stereotypes as a Means to Counteract Ethnic Tensions” was held. The public institution Roma Community Centre arranged the following events: five public discussions on Roma inclusion and socialization issues, two events aimed at combating ethnic discrimination and intolerance, two events related to the legal education of the Roma, ten events to raise public awareness of the Roma culture, twelve events (in total – 40 hrs.) for community capacity building. The Roma Community Centre held integration and socialization activities for children and youth (200 hrs. for Roma pre-school children), carried out extra-curricular activities for 40 Roma children and adolescents in the form of art, folk dance, music, singing and fitness clubs, as well as sections of sports games and artistic gymnastics (in total – 580 hrs.). Free official State language courses were offered for adult Roma (96 hrs. of 1st level training involved 10 Roma adults), as well two trainings on legal issues.

149. In 2011, the public institution House of National Communities held various training events for ethnic minorities, for example 22 non-Lithuanian adults attended free official State language courses leading to the acquisition of category I and II of the State official language; management courses were held for national community leaders – NGO managers

from across Lithuania (in total – 15 people) on arrangement of events, use of State symbols in public festivals, as well as basics for drawing a programme for an event. The public institution Lithuanian Centre for Folklore and Ethnography of National Minorities organized minority folklore courses (1 course, 30 people, 8 hrs.). Ethnic minorities, namely leaders and members of officially registered in Lithuania ethnic minority NGOs, students of different education establishments and pupils, interested in issues of national minorities, had a free access to computers, printers, the Internet as well as to printed material available at the Information Centre of the public institution House of National Communities. This kind of service was also provided at the public institution Kaunas Cultural Centre of Various Nations and the public institution Roma Public Centre. Different consultations were given, including those on support available for ethnic communities as regards NGO development (in total – 240 consultations), as well as on computer literacy (in total – 200 consultations), and methodological-practical support for leaders of national minority NGOs on financial accountability (in total – 80 consultations).

150. Summer camps for children from ethnic minority groups were held. A 7-day summer camp intended to promote national identity and socialization of Roma children was organized at the Baltic Sea (attended by 15 Roma children and adolescents), as well as the 11-th international ethno-music and folk craft Summer Camp “Tradition” (participants from Lithuania, Russia, Poland, Latvia, Ukraine and Belarus).

Ethnic minority folklore sound and video recording

151. The public institution Lithuanian Centre for Folklore and Ethnography of National Minorities collects and protects ethnic minority cultural heritage. In 2011, folklore expeditions and individual outreaches to ethnic minority inhabited areas in Lithuania with a view to record traditional singing traditions and habits of the Poles, Belarusians, Russians, Armenians and Tatars. A recording of the 11th international folklore camp was made: “Guidelines for Work with Children Folk Ensembles”, as well as concert recordings of the 6th folk festival “Pokrovskije kolokola” (supported by the Support Fund of the Ministry of Culture), etc.

Housing provided to ethnic minority NGOs

152. In 2011, free premises were provided to the public institution House of National Communities, the public institution Kaunas Cultural Centre of Various Nations, the public institution Roma Public Centre, as well as equipment needed for different events of ethnic communities: concerts, meetings, celebrations, rehearsals, language training courses, workshops, etc. (in total – 260 events). The public institution House of National Communities provided free permanent space to 10 national minority NGOs, equipped with modern furniture and office equipment (computers, Internet access point, land telephones, etc.).

Project co-financing

153. In 2011, the Ministry of Culture issued a call for proposals on cultural projects promoting ethnic minority culture to be partially funded from the State budget. Projects were expected to promote national minority culture in Lithuania and abroad, as well as to encourage ethnic minority children and youth activities, preserve cultural heritage and cultural values of ethnic minorities, ensure operation of Saturday-Sunday schools, promote education and ethnic tolerance, fight against racism and ethnic discrimination, promote integration of the Roma minority and national identity. 99 projects were funded for LTL 270 thousand in total.

Reply to the issues raised in paragraph 25 of the list of issues

154. Information on implementation of articles 18 and 21 of the Covenant has been provided in the replies to the issues raised in paragraphs 19 and 21 of the list of issues.

155. Information on the implementation of article 11 of the Covenant. The Criminal Code (CC) provisions regulating consequences for failure to fulfil contractual obligations do not provide for limitation of freedom for non-compliance with contractual obligations, nor do any other laws of the Republic of Lithuania. If obligations are not met for justifiable or unjustifiable reasons, the CC has separate provisions as regards legal consequences for failure to comply with obligations, but they are not related to limitation of liberty or freedom. General legal consequences for failure to comply with obligations are provided for in articles 6.59 – 6.65 of the CC, consequences for failure to comply with contractual obligations are provided for in articles 6.205 – 6.216 of the CC, special provisions as regards consequences for failure to comply with individual contracts are provided for in specific provisions of the CC governing individual contracts; contractual civil liability regulation is provided for in articles 6.256 – 6.262 of the CC.

156. Consequences for failure to fulfil contractual obligations may include: forfeit and/or damage compensation, unilateral termination of a contract (art. 6.218 of the CC), requirement to perform an obligation in kind (art. 6.213 of the CC), setting additional period for performance (art. 6.209 of the CC), suspension of performance until the other party begins to perform thereof (art. 6.207 CC), the demand to repair or replace a defective performance, or eliminate defects in performance by other means (art. 6.214 of the CC).

157. Information on the implementation of article 20 of the Covenant: war propaganda has been directly banned by paragraph 2 of article 135 of the Constitution, declaring that war propaganda shall be prohibited in the Republic of Lithuania. Also, article 19.1.3 of the Law on Provision of Information to the Public provides that the media is prohibited to publish information instigating war and hatred, threats, incite discrimination, violence, encouragement to physically deal with a group of people or its individual member on the grounds of age, sex, sexual orientation, ethnicity, race, nationality, language, origin, social status, religion, creed, faith or beliefs. Public information generator and disseminator is responsible for violations of this and other laws, also for violations of international agreements of the Republic of Lithuania, governing generation of public information, as well as for violations of the statutory procedure of public information dissemination as provided by this and other laws.

158. Furthermore, the activities of public information generator/disseminator, with the exception of radio/ television broadcasters/re-broadcasters, maybe suspended or terminated by the court, if the public information generator/disseminator violates provisions of article 19.1 and 19.2 of this Law. The articles also specify that it is prohibited to publish information inciting to forcibly change the constitutional order of the Republic of Lithuania; encouraging to encroach upon the sovereignty of the Republic of Lithuania, its territorial integrity, political independence; disseminating, promoting, or advertising pornography, as well as promoting/advertising sexual services, sexual perversions; and promoting/advertising bad habits, drugs and narcotic or psychotropic substances; it is also prohibited to disseminate misleading information and libellous, defamatory, demeaning information about an individual.

159. The responsibility of natural persons for these violations is regulated by the Code of Administrative Offences and the Criminal Code. Article 214-8 of the Administrative Code provides for an imposition of a fine on a chief editor or other advertising staff of the public information media for dissemination of unauthorized information. Repeated violation incurs higher fine.

160. Responsibility for propagating war is partly regulated by the Criminal Code. Article 122 of the Criminal Code provides for criminal responsibility for publicly calling to violate the sovereignty of the Republic of Lithuania, including war propaganda, if war is incited against the Republic of Lithuania. A person who publicly called for forced violation of the sovereignty of the Republic of Lithuania, including changing its constitutional order, overthrowing the legitimate government, encroaching upon the independence or violating the territorial integrity, and creating an armed group, or committing any other crimes under Criminal Code to encroach on the State of Lithuania, may be subject to imprisonment for up to five years.

161. In case war is instigated against another State, the perpetrator, depending on the circumstances of the offence, may be subject to punishment for incitement against any nation, race, ethnic, religious or other group of people under article 170 of the Criminal Code (see below). Besides, article 110 of the Criminal Code provides for criminal responsibility for inciting or leading an aggression against another State. The failed incitement of aggression, when contact was made with specific responsible individuals, can be described as an attempt to incite aggression (arts. 22(1), 24(5) and 110).

162. Instigation of hatred is prohibited by the Constitution, the Public Information Act. Article 25(4) of the Constitution states that freedom to express convictions and to impart information shall be incompatible with criminal actions – incitement of national, racial, religious, or social hatred, violence and discrimination, slander and disinformation.

163. Responsibility for such actions is provided for by article 170 of the Criminal Code “Incitement against Any National, Racial, Ethnic, Religious or Other Group of Persons“:

(1) A person who, for the purposes of distribution, produces, acquires, sends, transports or stores the items ridiculing, expressing contempt for, urging hatred of or inciting discrimination against a group of persons or a person belonging thereto on grounds of sex, sexual orientation, race, nationality, language, descent, social status, religion, convictions or views or inciting violence, a physical violent treatment of such a group of persons or the person belonging thereto or distributes them, shall be punished by a fine or by restriction of liberty or by arrest or by imprisonment for a term of up to one year.

(2) A person who publicly ridicules, expresses contempt for, urges hatred of or incites discrimination against a group of persons or a person belonging thereto on grounds of sex, sexual orientation, race, nationality, language, descent, social status, religion, convictions or views, shall be punished by a fine or by restriction of liberty or by arrest or by imprisonment for a term of up to two years.

(3) A person who publicly incites violence or a physical violent treatment of a group of persons or a person belonging thereto on grounds of sex, sexual orientation, race, nationality, language, descent, social status, religion, convictions or views or finances or otherwise supports such activities shall be punished by a fine or by restriction of liberty or by arrest or by imprisonment for a term of up to three years.

(4) A legal entity shall also be held liable for the acts provided for in this article.

164. Furthermore, any criminal act aimed to express hatred to a group of persons or an individual member of that group on the grounds of age, sex, sexual orientation, disability, race, nationality, language, origin, social status, religion, beliefs or opinions can be qualified by the Court, under article 60(1)(12) of the CC, as an aggravating circumstance, and in some cases it can be qualified as a (more serious) crime (e.g. murder (art. 129(2)(13) of the CC, grievous bodily harm (art. 135(2)(13) of the CC), minor bodily injury (art. 137(2)(13)).