

## العنصرية والتمييز العنصري وكره الأجانب وما يتصل بذلك من تعصب، متابعة وتنفيذ إعلان وخطة عمل ديربان

تقرير المقرر الخاص المعني بالأشكال المعاصرة للعنصرية والتمييز العنصري  
وكره الأجانب وما يتصل بذلك من تعصب، السيد دودو دين

إضافة

البعثة التي قام بها إلى ليتوانيا\*

\* يُعْمَم موجز هذه الوثيقة بجميع اللغات الرسمية. أما التقرير نفسه، المرفق بالموجز، فيُعْمَم باللغة التي قُدِّم بها فقط.

### موجز

قام المقرر الخاص المعني بالأشكال المعاصرة للعنصرية والتمييز العنصري وكره الأجانب وما يتصل بذلك من تعصب بزيارة ليتوانيا في الفترة من 16 إلى 19 تشرين الأول/أكتوبر 2007 من الحكومة وعملاً بولايته، من أجل تقييم حالة القضايا المتصلة بولايته. وعقد المقرر الخاص اجتماعات مع سلطات الدولة وكذلك مع المجتمع المدني، من جماعات الأقليات وضحايا العنصرية والتمييز العنصري، وكره الأجانب وما يتصل بذلك من تعصب.

وخلال المقرر الخاص إلى وجود إطار قانوني ومؤسسي راسخ للتصدي للعنصرية والتمييز العنصري في ليتوانيا، ولكن يتعين اتخاذ خطوات إضافية لضمان تطبيق التشريعات على النحو الكامل. وأشار إلى وجود تقاليد تاريخية متعددة الثقافات في ليتوانيا ستكون مفيدة لتجاوز التحديات التي سيواجهها البلد مستقبلاً. بيد أن المقرر الخاص وقف بالأت تدعو إلى القلق، وبخاصة ما يتعلق منها بالأقليات التاريخية مثل الأشخاص المنحدرين من أصل روسي وبعض الجماعات الضعيفة، وبخاصة الروما والمهاجرون الجدد غير ن. ولا حظ بصفة خاصة مع القلق التمييز الذي يواجهه مجتمع الروما، ولا سيما في مجالات العمالة، والتعليم والسكن. وواجهت الأقليات غير الأوروبية أيضاً مشاكل متزايدة العنف العنصري وخطاب الكراهية. وخلافاً للأقليات التقليدية، التي توجد في البلد منذ عقود أو قرون، يطرح هؤلاء المهاجرون الجدد مشاكل جديدة تتعلق بالهوية يجب اؤها عن طريق النهوض بمبادئ التسامح وتعدد الثقافات.

على غرار العديد من بلدان أوروبا الشرقية والبلطيقية، تمر ليتوانيا حالياً بمرحلة تاريخية. فبعد استعادة استقلالها في عام 1990، بدأت ليتوانيا تندمج في الاقتصاد المعولم، عملية تتضمن عدداً من التحديات التي تستلزم من السلطات وكذلك من المجتمع المدني لزوم الحذر الدائم. ويتمثل أهم تحد، تواجهه البلدان البلطيقية جميعها، في إيجاد توازن مستمر بقاء الأمة ذات الجذور التاريخية العميقة، ودينامية الهوية الجديدة المتعددة الثقافات الموروثة عن تاريخها الحديث. ويتمثل تحدٍ ملح آخر في استعداد مجتمعاتها للوصول جديدة من المهاجرين غير الأوروبيين جالين معهم تقاليد وثقافات وأديان مختلفة. ويمثل هذا التحدي أيضاً فرصة لإنشاء مجتمع ليتوانيا بمزيد من التنوع، والحوار بين الثقافات والتفاعل.

ويقدم المقرر الخاص عدداً من التوصيات تشمل ما يلي:

- ينبغي لسلطات الدولة أن تُبرز إرادتها السياسية القوية والتزامها بمحاربة جميع أشكال العنصرية والتمييز العنصري وكذلك حرصها ومراعاتها لديناميات التعدد الثقافي وتغيرات الهوية التي يواجهها المجتمع؛

- ينبغي للحكومة أن تنهض بعملية راسخة للتعدد الثقافي تقوم على الاعتراف بالتنوع الثقافي والديني واحترامه لدى مختلف المجتمعات المحلية، القدام منها والحديث، وتعزيز وحدة الأمة. وينبغي للتعليم، ولا سيما كتابة التاريخ وتعليمه، أن يضطلع بدور رئيسي، استناداً إلى هذا المنطق؛

- ينبغي للحكومة أن تتخذ خطوات لاستكمال الإطار القانوني القائم بتدابير تملأ الفجوات التي ما تزال موجودة في مجال الحماية. وينبغي، بصفة خاصة، تعديل القانون الجنائي لإدخال حكم يجعل من ارتكاب جريمة بدوافع أو أغراض عنصرية ظرفاً مُشدداً يمكن من إصدار عقوبة أشد على مرتكبي تلك الأفعال؛

- ينبغي للحكومة توسيع وتعزيز البرنامج الوطني لإدماج الروما في المجتمع الليتواني، من أجل النهوض بهويتهم الثقافية واحترامها والقضاء على تهميشهم الاجتماعي والاقتصادي، وبخاصة ظروف السكن المتدهورة، والعدد الكبير من المتسربين والنتائج الضعيفة لأطفال الروما في المدارس، والصعوبات التي يواجهها الروما في الحصول على العمل. وينبغي للبرنامج أن يتضمن عنصراً قوياً يركز على المواطنين من غير الروما وتوعية مجتمع ليتوانيا عامة بتاريخ وتقاليد الروما، بغية القضاء على الوصم والقوالب النمطية السلبية التي يتكرر ربط الروما بها؛
- ينبغي للمجتمع المدني في ليتوانيا أن يواصل تعزيز وتقوية دوره في رصد انتهاكات حقوق الإنسان، وبخاصة في مجال العنصرية والتمييز العنصري. وينبغي للمنظمات غير الحكومية بوجه خاص أن تعمل على تمكين الضحايا من الاستشارة القانونية والوصول إلى المؤسسات الوطنية والدولية، بما فيها الموجودة على الصعيد الإقليمي؛
- إلى جانب وضع استراتيجية سياسية وقانونية، ينبغي للحكومة اعتماد استراتيجية أخلاقية وثقافية تواجه أعمق جذور العنصرية، وكره الأجانب والتعصب وتقوم على أساس النهوض بالمعرفة المتبادلة للثقافات، والقيم، وديناميات التفاعل والتعايش بين مختلف المجتمعات المحلية.

## Annex

### REPORT SUBMITTED BY THE SPECIAL RAPPORTEUR ON CONTEMPORARY FORMS OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE, DOUDOU DIÈNE, ON HIS MISSION TO LITHUANIA (16-19 SEPTEMBER 2007)

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## Introduction

1. At the invitation of the Government, the Special Rapporteur visited Lithuania (Vilnius, Trakai and Visaginas) from 16 to 19 September 2007. At the

government level, he held meetings with the Ministers of Foreign Affairs, Justice, Education and Science, Culture, Social Security, the Undersecretary of the Ministry of Interior, representatives of its Migration and Police Departments, and the Director of the Department of National Minorities and Lithuanians Living Abroad. The Special Rapporteur also met with the President of the Supreme Court, the President of the Seimas (Parliament) and members of its Committee on Human Rights, the Ombudsperson for Children's Rights, the Ombudsperson for Equal Opportunities, the Deputy Head of the Prosecution Service at the Office of the General Prosecutor and the Inspector of Journalist Ethics. At the local level, he also met with the Vice-Mayor of Visaginas.

2. Apart from the agenda with the Government and State institutions, the Special Rapporteur also had extensive meetings with representatives of civil society organizations that are active in the realm of racism and xenophobia, minority communities as well as victims of racism and racial discrimination. He visited Roma and Jewish communities in Vilnius and the Karaite community in Trakai. The Special Rapporteur also visited the Lithuanian National Museum in Vilnius.

3. The Special Rapporteur wishes to express his gratitude to the Government of Lithuania for its cooperation and openness throughout the visit. He also wishes to thank the United Nations Country Team in Vilnius, in particular the staff of the United Nations Development Programme, for its outstanding support.

## **I. GENERAL BACKGROUND**

### **A. Historical and political context**

4. Lithuania has existed as an independent political entity and internationally recognized nation for many centuries, with the first reference to Lithuania as a nation dating back to 1009. Lithuanian statehood first emerged with the creation of the Kingdom of Lithuania in 1253, which extended into modern-day Belarus and Ukraine, stretching from the Baltic Sea to the Black Sea. In the late fourteenth century, when Lithuania and Poland shared the same ruler, the Christianization of the country took place, influencing particularly the upper classes. Apart from Christianity and family links among royalty, a number of political factors made Lithuania and Poland converge, culminating in the Polish-Lithuanian Commonwealth that lasted until 1795. Polish influence in Lithuanian cultural and social life became stronger during this period. Polish became an official language in 1697, used particularly by the upper classes and the nobility.

5. Lithuania fell under Imperial Russia in 1795, shortly before the Napoleonic wars. After the French army's withdrawal from the Baltics, Tsar Nicholas I put forward a policy of Russification of the region. The Lithuanian language and the Latin alphabet were banned in schools. Furthermore, with the widespread use of Polish by the upper classes, Lithuanian became relegated to being a language for the poor and lower middle classes.

6. Historians speak of a Lithuanian national revival starting in the late nineteenth century, with disfavoured classes continuing to carry Lithuanian traditions and subsequently spreading to society as a whole. Writings started to praise the Grand Duchy of Lithuania and to refer to national heroes and cultural traditions. This movement, which was initially cultural, spilled over to politics, fostering the emergence of nationalist independence movements and organizations opposing Russian influence. With the start of the First World War, these nationalist movements gained strength and independence was acquired after the German defeat. Vilnius, however, remained under Polish control from 1920 until the start of the Second World War.

7. The history of Lithuania, as of the other Baltic countries, after the start of the Second World War bears profound consequences for contemporary issues. The Molotov-Ribbentrop pact, although originally assigning Lithuania to Nazi Germany's sphere of influence, led to the first Soviet occupation in 1940-1941 and the creation of the Lithuanian Soviet Republic. Mass deportations of Lithuanians to Russia, particularly Siberia, took place in this period. Around 60,000 persons are believed to have been deported in 1940-1941. After the German invasion of the Soviet Union, Lithuania was quickly annexed to Nazi Germany and remained under German occupation until 1944.

8. Nazi occupation brought with it the consequences of the Holocaust. Lithuania used to be an important Jewish centre, from the end of the eighteenth century until the Second World War. It was home to some 160,000 Jews prior to the war, a number that increased to 250,000 after the arrival of Jewish refugees, particularly from Poland. Around 200,000 Jews, or 90 per cent of the Jewish population, were killed during the war. Following the Holocaust and the post-war emigration, only 4,000 live in Lithuania today.

9. Lithuania was reoccupied by the Soviet Union in 1944 and remained so until 1990. The first decade after the Second World War was marked by what many historians call an attempted Russification of Lithuanian society. In particular, several waves of mass deportations took place in these years. An estimated 780,922 people were killed, deported or forced to emigrate from Lithuania between 1940 and 1952, mainly to Siberia and Central Asia. One of the long-lasting effects of occupation was the change of the demographic situation within Lithuania, with the arrival of several minorities from other parts of the Soviet Union, including a sizeable Russian community.

10. After the restoration of its independence on 11 March 1990, Lithuania engaged in a rapprochement with its Western neighbours, both on economic and political grounds. On the economic front, far-reaching economic reforms started, including privatization, to move the country towards an open economy integrated in global markets. Lithuania gained membership in both the North Atlantic Treaty Organization (NATO) and the European Union (EU) in 2004. EU membership in particular led to the implementation of several reforms aimed at adapting internal legislation to EU directives. This process had an important impact in policies aimed at the fight against racism, racial discrimination, xenophobia and related intolerance.

### **B. Demographic, ethnic and religious composition**

11. Lithuania has historically been a multicultural society with a core national identity. According to the 2001 census, Lithuania has a population of around 3.5 million, 83.5 per cent of which is of Lithuanian origin. Other large ethnic groups are Poles (6.7 per cent), Russians (6.3 per cent) and Belarusians (1.2 per cent) and Ukrainians (0.7 per cent). A number of smaller communities are also present, including Jews, Latvians, Tatars, Germans and Roma. <sup>[1]</sup>

12. Lithuania has historically been a country with high levels of emigration. In the first half of the twentieth century, migration to North and South America made Lithuania one of the European countries with the highest percentage of its population having emigrated. Forceful deportations during the Soviet occupation also led to the establishment of Lithuanian communities in Siberia and Central Asia. Following accession to the EU, important outward migratory dynamics started to emerge, as Lithuanians move to higher-wage markets in the United Kingdom, Ireland, Spain and other EU member States. At present, an estimated 1.5 to 2 million Lithuanians are believed to live abroad.

13. Roman Catholicism is the predominant religion in Lithuania, as 2.7 million Lithuanians (79 per cent of the population) identify themselves with this religious denomination. During communist rule, Catholicism was severely persecuted and became a symbol of national identity. Other sizeable religious groups are Russian Orthodox (4.1 per cent) and Protestants (1.9 per cent). Atheists amount to 9.5 per cent of the population. The Jewish and Muslim communities are numbered in the low thousands. A small but active community of Karaites, a group of ethnic Turkic adherents of Karaite Judaism, is

located in the city of Trakai.<sup>[2]</sup>

### C. Political and administrative structure

14. Lithuania is a parliamentary democracy whose head of government is the Prime Minister. Legislative power is unicameral and exercised by a Parliament (Seimas) composed of 141 members, 71 of whom are directly elected, while the other 70 are elected on a proportional basis. To be represented in Parliament, parties need to obtain 5 per cent of the national vote. However, parties representing national minorities are exempt from this threshold. A multiparty system is in place and the Government is traditionally composed of coalitions. The higher instances of the judiciary are composed of a Supreme Court and a Court of Appeals as well as, for administrative matters, a High Administrative Court. Issues relating to conformity with the Constitution are dealt with by the Constitutional Court.

15. The larger subnational administrative divisions are the counties (*apskritis*), which are ruled by governors (*apskrites viršininkas*) appointed by the national Government. The counties are further subdivided into municipalities (*savivaldybės*). Municipalities are governed by municipal councils that are elected through direct suffrage and are responsible for appointing mayors.

### D. International human rights instruments

16. Lithuania is party to most of the major international human rights instruments, including the International Covenant on Civil and Political Rights and its two Optional Protocols, the Covenant on Economic, Social and Cultural Rights, and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).<sup>[3]</sup> Most notably, Lithuania has also recently ratified the Convention relating to the Status of Stateless Persons and the Council of Europe Framework Convention for the Protection of National Minorities.

17. At the European level, Lithuania has yet to become a party to other legal instruments that are relevant for questions of racism and discrimination, including Protocol No. 12 to the European Convention on Human Rights on general non-discrimination, the European Convention on Nationality, the Convention on the Participation of Foreigners in Local Public Life at Local Level and the European Charter for Regional or Minority Languages.<sup>[4]</sup>

### E. Methodology

18. The Special Rapporteur carried out extensive meetings with authorities at the executive, legislative and judiciary branches to collect their views and opinions as well as information concerning government programmes, legislation, judicial decisions, etc. Additionally, an agenda for meeting with civil society organizations, communities and associations representing minority groups, victims of discrimination, journalists and student leaders was organized.

19. In order to objectively and comprehensively assess the situation of racism, racial discrimination and xenophobia, the Special Rapporteur structured his meetings with interlocutors around three questions: (a) Is there racism, racial discrimination, xenophobia and related intolerance in Lithuania?; (b) If so, who are their main victims and what are the main manifestations and expressions?; (c) What are or should be the governmental policies and programmes to fight these phenomena at the political, legal and cultural levels?

20. Chapter II of this report analyses the political and legal strategy adopted by State institutions in Lithuania, emphasizing the perceptions of State officials concerning racism and discrimination in the country. Subsequently, chapter III introduces the views of civil society organizations, representatives of minorities and victims of discrimination. This is followed by an analysis by the Special Rapporteur of chapter IV and his recommendations to both the Government of Lithuania and civil society organizations in chapter V.

## II. LEGAL FRAMEWORK, PUBLIC POLICIES AND VIEWS OF STATE OFFICIALS

### A. The legal and institutional framework to combat racism and racial discrimination

#### Constitutional provisions

21. The general legal provision of equal treatment is established by article 29 of the Constitution, which states that “all persons shall be equal before the law, the court and other State institutions and officers” and that “a person may not have his or her rights restricted in any way, or be granted any privileges, on the basis of his or her sex, race, nationality, language, origin, social status, religion, conviction or opinions”.

22. Under article 25 of the Constitution, incitement of racial, religious, national or social hatred, violence or discrimination is prohibited, are deemed incompatible with freedom of expression and considered as criminal actions.

23. Particular rights of national communities are also established by the Constitution. Under article 37, citizens belonging to ethnic communities are granted the right to foster their language, culture and customs. Article 45 establishes that “ethnic communities shall independently administer the affairs of their ethnic culture”.

#### The Law on Equal Treatment and the Equal Opportunities Ombudsperson

24. The broad provisions established in the Constitution are specified in the Law on Equal Treatment approved on 18 November 2003, entering into force on 1 January 2005. The purpose of the Law is to “ensure the implementation of human rights laid down in the Constitution” and “to prohibit any direct or indirect discrimination based upon age, sexual orientation, disability, racial or ethnic origin, religion or beliefs” (art. 1.1). The Law makes explicit reference to Lithuania’s human rights obligations laid down in both international and national instruments and spells out the specific responsibilities of State and municipal institutions, educational institutions, employers and consumer service providers.

25. Apart from containing a legal prohibition against discrimination, the Law on Equal Treatment also defines some positive measures that are to be taken by State authorities to redress potential discrimination. These include the drafting and implementation of “programmes and measures designated for ensuring equal treatment” and the provision of “assistance to the programmes of religious communities, associations and centres, other non-governmental organizations, public agencies and charity and sponsorship foundations, which assist in the implementation of equal treatment” (art. 3).

26. The Law on Equal Treatment expanded the role of the Equal Opportunities Ombudsperson, who is responsible to receive complaints from persons

that allege being subject to discriminatory actions and to oversee the general implementation of the Law. Prior to 2005, the Ombudsperson was responsible primarily for issues of gender equality. However, since the adoption of the Law on Equal Treatment, its mandate was expanded to cover various forms of discrimination, namely on the basis of age, sexual orientation, disability, racial or ethnic origin, religion or beliefs. The Ombudsperson is allowed to investigate complaints filed not only by citizens, but also foreigners and stateless persons. An important element of the Ombudsperson's mandate is the power to initiate investigations at her discretion and not only in response to existing complaints.

27. After investigating a complaint, the Ombudsperson has an array of possible responses, including referring the case to investigative bodies, to recommend that an institution ceases to perform actions violating equal opportunities, to repeal a legal act violating equal opportunities, to impose administrative sanctions and to issue a warning about the offence committed. These recommendations are legally binding; non-compliance is liable and may lead to administrative sanctions.

28. Until September 2007, the Office of the Ombudsperson had received 20 complaints of discrimination based on ethnic origin, an increase relative to previous years. The majority of these cases concern discrimination by administrative State institutions and in the realm of employment.

29. The Ombudsperson informed the Special Rapporteur that a considerable part of her activities also refer to awareness-raising, particularly dissemination of information to people concerning their rights and training of public officials regarding non-discrimination. In this regard, the Office of the Ombudsperson has organized training courses for police officers, border security guards, the fire department, journalists and lawyers. In terms of awareness-raising, it is of particular importance to note that the year of 2007 has been declared Year for Equal Opportunities for All in Lithuania and that a number of activities in this realm have been organized by the Office of the Ombudsperson.

#### **Law on National Minorities and the Department of National Minorities and Lithuanians Living broad**

30. The general provisions of the Constitution are also complemented by the Law on National Minorities, which recognizes notably that "the cultural heritage connected with a national (ethnic) minority is an integral part of the cultural heritage of the Republic of Lithuania". This Law, similarly to the Law on Equal Treatment, establishes a general prohibition on discrimination based on national or ethnic origin whilst defining positive actions to advance minority cultures. In particular, it ascertains the State obligation to promote the national consciousness and self-expression of minorities "to foster and develop the culture, language, customs and traditions of their nation or ethnic group and to preserve their national/ethnic identity" (art. 3.2).

31. The Law on National Minorities establishes a particular set of rights for persons belonging to national minorities, which includes the right to the State's support in developing their national culture and education; the right to use the language of their national minority; the right to be taught the minority language or to receive instruction in this language; the right to receive and impart information and ideas in the minority language; the right to manifest one's religion or belief and to establish religious communities and associations; the right to use minority symbols and celebrate minority holidays. Furthermore, the Law also establishes the principle that in areas inhabited by a large number of persons belonging to a national minority, these persons may request to address State institutions in their minority language. Implementation of the Law is entrusted to the Department of National Minorities and Lithuanians Living Abroad.

32. The Department of National Minorities and Lithuanians Living Abroad is responsible for the protection of rights of persons belonging to national minorities, safeguarding of their interests, attending to their needs and care for the preservation of national identity and heritage.<sup>[5]</sup> The Department is directly supported by an advisory Council of National Minorities, gathering representatives of some 20 communities, who make recommendations to the Department, the Seimas and the Government as a whole. The Department is also responsible for promoting Lithuanian culture abroad, particularly by supporting activities developed by the Lithuanian diaspora, which has some 1.5 to 2 million members worldwide.

33. Apart from policy consultation, one of the roles of the Department is to provide support, including funding, to initiatives developed by minority communities in Lithuania. A number of cultural centres that promote minority cultures are being supported by the Department around the country. In particular, the Special Rapporteur visited the Roma community centre in the outskirts of Vilnius, the Jewish Tolerance Centre in Vilnius, the Karaite Society in Trakai and a multicultural centre in Visaginas. In this regard, the Department is designed to promote a predominantly cultural strategy to promote integration and multiculturalism and foster minority cultures, thus complementing the legal measures that have been established to fight racism and discrimination.

#### **B. Policies and measures to combat racism and racial discrimination**

34. The Government's approach to national minorities was summarized by the Director of the Department of National Minorities and Lithuanians Living Abroad as an attempt "to build a new Lithuanian State with the minorities that live in Lithuania". In particular, this Department ruled out any possibility of fostering integration by assimilation, emphasizing the importance of national minorities maintaining and promoting their cultural traditions within a multicultural State.

35. A number of different authorities at the Ministerial level have informed the Special Rapporteur about activities and programmes that are being developed in their particular mandate areas to fight racism, racial discrimination, xenophobia and related intolerance. These include actions in the area of education, culture, social security and labour.

36. The Ministry of Education relies on a strategy, based on constitutional requirements, to promote education in the minority language. An explicit policy decision in this regard was that "the mother tongue of minorities should not be relegated to second place", as expressed by the Minister herself. Under the Law on Education, in municipalities with a substantial national minority, upon the community's request, education is granted in the minority language. In 2006/07, in terms of language instruction, the number of secondary schools was the following: 64 Polish and 17 Polish-Lithuanian; 44 Russian and 20 Lithuanian-Russian; 13 Polish-Russian schools; 5 Lithuanian-Russian-Polish schools; and 1 Byelorussian. Additionally, there is a Jewish and a German school that combine instruction in Lithuanian with Jewish or German language courses, history and culture. In this period, 4.5 per cent of the student population were studying in Russian, and 3.4 per cent in Polish. Funding at minority schools is substantially higher than for Lithuanian schools, on the order of 10 per cent more per student.

37. As concerns the promotion of tolerance and intercultural dialogue, the Special Rapporteur was also informed that Lithuania, through its Ministry of Culture, has put in place a strategy that focuses on four main principles: the promotion of minority cultures; the implementation of the United Nations Educational, Scientific and Cultural Organization (UNESCO), Convention on Cultural Diversity; the coordination of the European programme on dialogue among cultures; and the preparation of activities for 2009, when Vilnius will be the European capital of culture. For this particular celebration, the Ministry of Culture has planned a number of activities that emphasize the role of multiculturalism and intercultural dialogue as cornerstones of Lithuanian culture. Three

broad principles are followed while implementing cultural policy: every member of society has the right to participate; Lithuanians and national communities have the right to preserve and foster their national culture; conditions are created to spread Lithuanian culture internationally and to familiarize Lithuanians with other nations' cultures. [6]

38. The Minister of Social Security and Labour highlighted the importance of implementing EU directives on race, equality of chances and labour market. In what concerns the labour market, these new directives will allow for NGOs and other associations to file formal complaints that lead to judicial proceedings in cases of discrimination. The Minister also emphasized the advocacy role played by her Ministry in order to raise awareness among the population, particularly employers, regarding existing norms and legislation on non-discrimination. A particular project that was mentioned concerned the integration of refugees in the labour market, where targeted actions to promote tolerance towards incoming refugees and asylum-seekers are being developed. Finally, the Ministry stressed that the Government of Lithuania's social policy is based on the cross-cutting concept of social solidarity, which is closely connected to a vision of tolerance and respect for diversity.

### C. Perceptions and reactions of State officials and government agencies

39. Most public authorities interviewed by the Special Rapporteur, including the Chairman of the Seimas, the President of the Supreme Court and various ministers, expressed the view that racism is not a widespread and structural phenomenon in Lithuania, but rather a problem reflected in isolated instances. In particular, these interlocutors emphasized that racism and discrimination do not exist in legislative or administrative acts in the country. The historical background of Lithuania as a multicultural society was emphasized in many of the meetings, where the underlying message was that this historical heritage contributes to a spirit of openness and respect for diversity.

40. The Special Rapporteur noted that many high-level authorities consider the existing legal instruments - in particular the Law on Equal Treatment and the Law on National Minorities - as an adequate framework to fight racism, racial discrimination, xenophobia and related intolerance. The authorities have also praised the mandate and work of the Ombudspersons for Equal Opportunity, as well as the Ombudsperson for Children's Rights, as important mechanisms to ensure that rights are protected and violations are punished. Many authorities, including the Minister of Justice, attributed an important role to the process of adapting Lithuanian legislation to the requirements of EU membership, in particular the internalization of the *acquis communautaire*, as positive steps that helped improve the legal and institutional framework in many areas, including racism and discrimination.

41. Insofar as the full implementation of existing legislation is concerned, many authorities highlighted their concern that there are still some shortcomings and room for improvement. In particular, they expressed the view that, since an important part of the legislative structure has been adopted very recently, it is important to focus on awareness-raising activities, particularly the training of public officials so that they are familiar with and compliant to existing laws. Some authorities also mentioned the need to spread information among the population at large concerning the legislation on racism and discrimination as well as the institutional mechanisms that are available to receive complaints and redress existing violations.

42. Several of the Special Rapporteur's interlocutors in State institutions remarked on the importance of putting the issue of racism and discrimination in its historical context. It was pointed out that Lithuanian national identity - particularly language and culture - was severely curtailed during the Soviet occupation. According to these statements, the Lithuanian policy was now to rely on a radically opposite policy, one that actively recognizes the rights of national minorities and that promotes their traditions.

43. Officials at the Ministry of Interior also expressed the view that an important policy that contributed to creating peaceful relations and tolerance between ethnic communities in Lithuania was the zero-option citizenship law after the restoration of independence. According to this law, every individual who was living in Lithuania before the restoration of independence in 1990 (except former members of the Soviet military forces) was granted the option to become a Lithuanian citizen. This policy has virtually eliminated the problem of statelessness and managed to grant national minorities the full set of rights that stems from citizenship.

44. Some voices within Lithuanian State institutions expressed a more nuanced view concerning racism and discrimination in the country. In particular, the Office of the General Prosecutor acknowledged that discrimination exists in Lithuania, adding that it has been trying to interpret existing legislation in order to face this challenge. In particular, the concluding observations of the Committee on the Elimination of Racial Discrimination on the report presented by Lithuania (CERD/C/LTU/CO/3) are taken into account when interpreting domestic legislation. According to the Office of the General Prosecutor, this includes the CERD recommendation that Lithuania adapt its legislation in order to introduce in its criminal law a provision that makes committing an offence with a racist motivation or aim an aggravating circumstance that allows for a more severe punishment (*ibid.*, para. 7). The Special Rapporteur noted with interest that the Office of the General Prosecutor can initiate inquiries concerning incitement to racial hatred rather than just reacting to formal complaints. The Deputy General Prosecutor highlighted a number of concrete examples of grave issues that were the focus of his Office's attention, including attacks against African students as well as a Chinese immigrant that were not duly registered as racist crimes, and emphasized the need to amend the Criminal Code following CERD's recommendation.

45. The Special Rapporteur asked his counterparts about their views on the issue of racist violence, the effectiveness of the State in treating racism as an aggravating circumstance when racist crimes are committed and regarding the State's role to curb incitement to racial hatred. In particular, he highlighted the ongoing discussions at the international level concerning the balance between freedom of expression and respect for other rights that are threatened by hate speech.

46. In this line, the Chief Justice of the Supreme Court explicitly mentioned the provisions in the Criminal Code that establish criminal responsibility for incitement to racial, ethnic or religious hatred. However, he also highlighted that even though Courts are aware of this provision, they are rarely used due to the limited number of cases that reach them. He expressed his view that an important number of the cases of racist violence are acts of hooliganism and vandalism, which are problems that exist in most societies.

47. The Minister of Justice also referred to the legal prohibition to incite racial or ethnic hatred and exemplified some actions that have taken place in this regard, mentioning a draft law on the amendment of the Criminal Code, under consideration by the Parliament, which prohibits the public display of Nazi or Soviet symbols.

48. Authorities also referred to the role of the Seimas-appointed Inspector of Journalist Ethics to examine cases of hate speech contained in the media, including Internet sites. The Special Rapporteur met with the inspector to collect his views on this issue. The Inspector has the duty to investigate complaints of violations of professional ethics by journalists, editors and publishers, which includes cases of incitement to racial hatred published in the printed, audio-visual or digital media. The Inspectorate reaffirmed the view that there is no widespread discrimination in Lithuanian journalism and that very few cases of hate speech are brought to his attention. However, he highlighted some issues where the action of the Inspectorate is important. In particular, he referred to cases of journalistic articles regarding criminal cases that make an explicit reference to ethnic background when the perpetrator is a member of a minority community. He also recalled a recommendation issued by his Office requesting Lithuanian newspapers not to publish the cartoons of Prophet Mohammed

that had originally appeared in a Danish news paper in 2005.

49. Another aspect related to incitement to racial hatred concerns measures to prevent the emergence of political parties that promote an openly racist and xenophobic platform. In this regard, the Ministry of Justice oversees whether the political programmes of the parties are in conformity with national laws and international agreements, including the principle of prohibition of racial or ethnic discrimination. According to government officials, Lithuania's democratic tradition and heritage of tolerance have in practice made it impossible that local political parties would promote racist platforms.

50. Several political leaders in the Seimas, including the Speaker and the President of the Committee on Human Rights, conveyed to the Special Rapporteur the information that political parties in Lithuania have not used any type of racist or discriminatory rhetoric in the past and that electoral campaigns across the ideological spectrum have not built on such a discourse. In this line, even nationalistic parties in Lithuania have refrained from engaging in such rhetoric, focusing rather on the foreign relations between Lithuania and its neighbours and not on local communities.

### **III. VIEWS OF CIVIL SOCIETY AND COMMUNITIES CONCERNED**

#### **A. Concerns in response to State policies and measures**

51. Representatives of civil society organizations and representatives of ethnic minorities expressed a different view from that of State officials concerning racism and discrimination in Lithuania. The Special Rapporteur's civil society interlocutors, including human rights organizations that make systematic monitoring of racism, have expressed their concern regarding a marked increase of intolerance in Lithuania in the past years. In particular, they referred to the growing activity of extremists, including neo-Nazi groups, and their involvement in acts of physical and verbal aggressions that have taken place in some specific regions, including Klaipėda, where an important international university is located.

52. According to representatives of civil society, the most direct victims of intolerance are visually different minorities, especially non-European migrants, and the Roma community. Examples of physical attacks against individuals belonging to these minorities, including foreign students, have been brought to the Special Rapporteur's attention by NGOs, lawyers and victims themselves.

53. Although many civil society representatives expressed a positive assessment concerning the existing legal and institutional framework, they pointed to a number of areas where improvements could take place. In particular, a transposition of the full provisions of the European Union Race Directive was mentioned as a desired outcome that would guarantee additional protection to vulnerable groups and facilitate litigation of racism cases. Some NGOs also expressed their belief that Lithuania should make a declaration under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, allowing for individual petitions to CERD, in order to strengthen the legal mechanisms to fight racism and discrimination. Finally, on the domestic level, civil society organizations requested a strengthening of the role of the Ombudsperson, particularly the implementation of her recommendations. In their view, the enforceability of these recommendations and in particular the sanctions for non-compliance should be strengthened.

#### **B. Views of the Roma community**

54. The Special Rapporteur visited the largest Roma settlement in Lithuania (Kirtimai), in the outskirts of Vilnius, to receive first-hand information concerning the situation of the Roma community. In the settlement, he visited a Roma Community Centre that is funded by the Department of National Minorities and Lithuanians Living Abroad and that functions as preparatory school for Roma children living in the area. The Special Rapporteur met with local community leaders, visited households and had discussions with a number of families in order to hear their concerns regarding their present situation.

55. During his visit to the Roma settlement, the Special Rapporteur noted the precarity of living conditions, especially housing, to which the community is exposed. In particular, he noted the lack of electricity and heating as well as drinking water and sanitation in many houses, reportedly due to an inability of some families to pay the fees for public utilities. These families often have to rely on firewood as a source of heating, which is subsidized by the municipal authorities. Some of the dwellings are also overcrowded, with several families living together. The community expressed serious concerns regarding past demolitions conducted by municipal authorities in 2004 that removed several houses from the settlement. The demolitions stopped after interventions by both the Seimas Ombudsman and the Equal Opportunities Ombudsperson, but concern was expressed about the uncertainty of housing rights in the future. Following the mission, the Special Rapporteur received the information that in December 2007, the Vilnius Regional Administrative Court issued a sentence granting reparations of 5,000 Litās (roughly 1,450 euros) for each of the 20 plaintiffs in the case concerning the demolitions in 2004.

56. The Roma community have denounced the widespread prejudice and discrimination that they face in various realms of social life in Lithuania. The main concern expressed by Roma leaders and families was discrimination in employment. According to some research-oriented NGOs, the unemployment rate among Roma citizens is several times higher than in the rest of the population. Individual cases of discrimination in employment were heard by the Special Rapporteur, particularly cases where Roma citizens were refused employment once the employer discovered their ethnic origin.

57. In education, the Roma community also has the lowest attainment rates, which was considered by local leaders as a matter of serious concern, especially when one considers that almost 50 per cent of Roma citizens are youth.<sup>[7]</sup> At the Kirtimai settlement, courses are offered for Roma children to prepare them to start mainstream school as well as additional classes for pupils that are already attending schools. Although the existence of such a preparatory school in Kirtimai is seen as a very positive development, members of the community mentioned that Roma children are often subject to prejudice once they start regular schools, pointing to the lack of multicultural training for both teachers and pupils in these schools. Roma children have higher dropout rates than any other minority, as well as poorer educational achievement.

58. The Special Rapporteur asked Roma representatives for their views concerning the Programme for the Integration of Roma into Lithuanian Society, implemented by the Department of National Minorities and Lithuanians Living Abroad. The general perception was that the programme was a positive step, particularly due to the formal recognition by State institutions of the difficult situation faced by the Roma community. Local leaders described the actions and projects designed by the department on a positive note and as important means to redress the situation. However, two major criticisms regarding the programme were raised. First, the programme was seen as insufficient to tackle the structural problems that the community faces, particularly regarding access to jobs. In particular, Roma leaders pointed out that the actions developed by the Department can only be successful if complemented by an engagement of the Vilnius municipal authorities, which are directly responsible for a number of practical issues concerning the Kirtimai settlement (e.g. land, access to basic services, schooling, etc). Second, Roma representatives felt that the community was not satisfactorily consulted or involved in the design and implementation of the programme and hence could not voice its major concerns and suggestions, which would have an impact on the effectiveness of State actions.

59. One of the reasons why the Programme for the Integration of Roma into Lithuanian Society was criticized was its virtually exclusive focus on actions within the Roma community and a lack of attention to broader initiatives that need to take place at the heart of Lithuanian society to combat prejudice and further tolerance and respect. Ultimately, the issue that was constantly highlighted by Roma leaders in their discussions with the Special Rapporteur was the broad question of cultural mentality and acceptance by the Lithuanian society of the Roma as a distinct community that is the bearer of social and cultural traditions that need to be preserved. Their main demand, therefore, is that actions to improve the conditions of living of Roma citizens be linked to the promotion of tolerance and acceptance of cultural diversity within Lithuanian society.

60. In this regard, the Special Rapporteur welcomes the new Roma Integration Programme for the period 2008-2010, which aims to focus on some of the problems outlined by the community, with a special emphasis on issues of employment, professional training, social exclusion and the building of tolerance towards the Roma community.

61. The Special Rapporteur noted with interest that one of the most popular singers in Lithuania today is a Roma. Although Roma communities in Europe have historically found in music one of the few avenues for expression and broad participation in society, which has not had a meaningful impact on the reversal of their marginalization and exclusion, the Special Rapporteur expressed his conviction that the success of a Roma musician as a national symbol in mainstream popular music in Lithuania could be an opportunity for authorities, society at large and the Roma community to deepen this expression of acceptance of diversity and engage in a profound discussion aimed at fostering new opportunities for educational, cultural and professional inclusion of Roma within Lithuanian society.

### **C. Views of non-European communities**

62. Human rights NGOs and representatives of non-European minorities living in Lithuania expressed serious concern regarding discrimination and intolerance against visually different minorities. Although these minorities are, for now, small in number, they have voiced a preoccupation regarding recent acts of racist violence and hate speech directed particularly at Africans, including acts committed by neo-Nazi sympathizers.

63. Although isolated acts of violence have already taken place in Lithuania, non-European communities, particularly Africans, emphasized their concern regarding future trends and a potential increase in intolerance and racist aggressions. This fear is also related to the increase in the flow of international migrants after Lithuania's accession to the EU, fostered by the country's robust economic growth. Communities expressed the concern that, to date, non-European minorities have been rare in Lithuania. However, as the size of these communities grows, issues of identity and cultural diversity will become more important. Representatives of non-European minorities stressed that there is a lack of intercultural activities aiming specifically at new minorities, whose cultural customs and traditions are not as well known as those of traditional minorities. Community representatives also expressed concern regarding the rise of Islamophobia among some societal segments.

64. A case of racist aggression that was described to the Special Rapporteur concerned an African student in Klaipėda. He was allegedly subject to multiple forms of discrimination in public places, including physical attacks. In a particular case, he filed a complaint alleging that a controller on a bus had verbally harassed him by calling him "monkey". According to the Office of the Ombudsman, this case was referred to the Office of the Prosecutor General for investigation of incitement to hatred and violence.

### **D. Views of the Jewish and Karaite communities**

65. Lithuania was historically one of the most important Jewish centres in Europe. However, after the Nazi occupation and the Holocaust, the Jewish population virtually disappeared and only a small community of some 4,000 Jews remains, most of whom arrived in Lithuania after the war. According to members of the Jewish community, the Holocaust is still a very present and painful issue for Lithuanian society, particularly due to the involvement, during the war, of many local collaborators in widespread anti-Semitic violence.

66. The Jewish community expressed its satisfaction with some recent actions by the Government. One of the initiatives pointed out by the community was a broad review of school textbooks, which took place 10 years ago, aiming to eliminate embedded prejudices and correct distortions concerning the history of Lithuanian Jewry, particularly during the Holocaust, and the issue of local collaborators. The community also noted with satisfaction the creation in 1998 by the President of the Republic of the International Commission for the Evaluation of the Crimes of the Nazi and Soviet Occupation Regimes in Lithuania. The work of the Commission was viewed by the Jewish community as an important means to raise awareness regarding the crimes committed against Jews and thus mobilize society against anti-Semitism.

67. The Special Rapporteur visited the Jewish Tolerance Center and Museum in Vilnius, which is the most important documentation centre for the history of Lithuanian Jewry. It receives around 12,000 visitors per year. The director highlighted the importance of raising awareness within Lithuanian society at large regarding the crimes committed during the Holocaust, including by local collaborators, as a means to maintain continuous vigilance regarding the threats posed by anti-Semitism in all its forms. By facing the difficult moments of the past, Lithuanians would also be better prepared to cope with the new challenges in the future, including the influx of migrants.

68. Some particular problems that were highlighted by the Jewish community concern the issue of property restitution, which is currently being settled by the courts. Concern was also expressed regarding the emergence of violent extremist anti-Semitic groups, which emulate the behaviour of such groups in neighbouring countries.

### **E. The multicultural experience of Visaginas**

69. The Special Rapporteur also visited the city of Visaginas, in the northeast of the country, which is considered as a successful experiment of multicultural integration. Although a small city, Visaginas has 47 different nationalities represented and only 14 per cent of its population is ethnically Lithuanian. Around half of the population is of Russian origin, many of whom moved to Visaginas to work in the construction and maintenance of a nuclear power plant that operates close to the city.

70. Due to the multicultural character of the city, language issues come to fore. In this regard, the Special Rapporteur was informed by the Vice-Mayor of ongoing efforts to improve access by persons of non-Lithuanian origin to the full range of State services. This includes, for example, the possibility of addressing municipal institutions in Russian, including the Municipal Council. Ethnic minorities are also represented in the local political system - only a quarter of the members of the Municipal Council are ethnic Lithuanians. According to local authorities, despite the potential problems that would arise due to linguistic diversity, the actual experience is quite positive and encouraged most of the Visaginas population to become proficient in several foreign languages.



71. In Visaginas, the Special Rapporteur also visited the local community centre where national minorities develop an array of cultural activities, particularly involving children. In the community centre, the Special Rapporteur met representatives of the Russian, Ukrainian, Tatar and Jewish communities. They explained that the centre focuses on three main strategies. First, Sunday schools are made available for children belonging to minorities. Whereas the Russian community, due to its larger size, is able to have Russian-language education in regular schools, smaller minorities organize after-school lessons for their children. So far, classes for seven different minorities are available, not only for linguistic proficiency but also focusing on social studies, history and traditions of each minority. The second strategy is to go further than classes and also to meet the cultural needs of minorities through the creation of national associations that organize year-long activities and events, such as special celebrations organized by the Muslim community during Ramadan and music lessons for traditional folkloric music. Finally, the centre also serves as a means to enhance communications and consultation between the minorities and the national Government, particularly through the Department of National Minorities and Lithuanians Living Abroad.

72. The underlying message expressed both by local authorities and community leaders in Visaginas was that the different ethnic communities managed to become well integrated in the fabric of the local society whilst not only preserving but also strengthening their own particular identities. In this sense, Visaginas is an important test of the strength of Lithuania's multiculturalism and the way it will meet its future challenges. Some Sri Lankan migrants had recently moved to the city for work, which points to the tendency of non-European migration in the future. Furthermore, the nuclear power plant, which is one of the main sources of income in the city, is scheduled to be deactivated in 2009, which has created some uncertainty and fears regarding the city's future welfare. Although the existing network of intercultural relations in Visaginas offers a solid basis to tackle these challenges, constant vigilance by authorities and civil society will be required in the future. In this regard, Visaginas' successful experience in overcoming the challenges of globalization in times of more difficult economic conditions could serve as an example for other parts of the country as well as the region itself.

#### IV. ANALYSIS AND ASSESSMENT OF THE SPECIAL RAPPORTEUR

73. After carefully assessing the statements of government officials as well as those of representatives of civil society organizations, ethnic and religious minorities as well as other communities, the Special Rapporteur reached the following conclusions.

74. Lithuania has put in place a progressive and comprehensive legal strategy to address the issue of racism and discrimination. The Law on Equal Treatment became a holistic instrument to fight all forms of discrimination. In this regard, it offers an important degree of protection to potential victims of racism and discrimination, as well as providing opportunities for them to redress violations in different realms. The Law on National Minorities is also an important legal tool and a progressive instrument due to its formal recognition of the cultural autonomy of minority communities as well as its explicit embrace of multiculturalism, rather than assimilation, as the official State policy regarding integration.

75. Alongside its overarching legislation, Lithuania has managed to establish institutions that are well placed to provide effective remedies to racism and discrimination. The Special Rapporteur was particularly impressed by the quality of the work performed by the Ombudspersons on Equal Opportunities and Children's Rights in attempting to correct and prevent violations of the Law on Equal Treatment. He also recognizes the awareness and vigilance of the Office of the Prosecutor General concerning new challenges that are emerging in the fight against racism in Lithuania, particularly regarding new migrants, and its proactive policy to initiate investigations of racist crimes and incitement to racial and religious hatred.

76. Apart from institutions operating on the legal realm, the Special Rapporteur was also encouraged by the work of other government bodies that focus on social and cultural policies towards vulnerable groups. In particular, he wants to highlight the central role played by the Department of National Minorities and its director to protect and promote the cultural traditions of national minorities. Despite the limited amount of funding, it has managed to develop creative and innovative policies to address the needs of minorities and promote multiculturalism, being clearly recognized by minority communities as a legitimate interlocutor. The Ministries of Education and Culture, in the Special Rapporteur's view, also show a positive and creative contribution to the promotion of multiculturalism. It is especially relevant to highlight the Ministry of Culture's activities in the realm of Vilnius's selection as the European "Capital of Culture" in 2009, when a number of events to illustrate Lithuania's diversity will be organized.

77. However, despite the existence of a progressive legal and institutional framework, there are still a few protection gaps that need to be corrected through the adoption of complementary legislation or amendments. In particular, a number of civil society interlocutors have pointed out that various cases of racist aggressions tend to be viewed by law enforcement agencies as acts of hooliganism or vandalism, thus disqualifying the racial motivation. This worrisome tendency to equate racial attacks with hooliganism was also noted by the Special Rapporteur in his meetings with a few State authorities, including the President of the Supreme Court. In order to correct this legal gap, and in line with recommendations made by other international bodies, it is important for Lithuania to amend its criminal code in order to recognize racism as an aggravating circumstance in racist crimes. Such a measure would help law enforcement agencies bring perpetrators to justice and act as an important legal deterrent for future aggressions.

78. A second frequently mentioned problem with the existing legal framework regards the full application of its provisions. Human rights NGOs and representatives of minorities pointed out cases where existing laws have not been fully applied or enforced. The most common example that was mentioned concerned instances that would characterize as incitement to racial hatred. Despite a clear constitutional prohibition of incitement to racial hatred, in practice very few cases have been brought to justice or they led to light punishment, often an administrative fine. The challenges in effectively prosecuting cases of hate speech, in particular the issues of intent and burden of proof as well as the question of the balance between freedom of expression and the full enjoyment of other rights, are not distinctive features of Lithuania. However, law enforcement agencies and the judiciary need to tackle these issues more effectively in order to adequately comply with domestic legislation and international instruments.

79. The Roma community in Lithuania, as in many European countries, is a particularly vulnerable group, and subject to profound discrimination - not sanctioned by laws, but deeply rooted in the minds of many citizens - and thus requires concerted efforts by authorities at the national and local level. Apart from the provision of basic rights, especially good housing conditions, education and health, Lithuanian authorities should focus on broader actions that target not only the community itself, but society as a whole. One of the central causes of the marginalization of Roma citizens is intolerance and a lack of acceptance by society at large, which can only be redressed through a national strategy to promote cultural diversity and acceptance of multiculturalism. This strategy would also include activities that promote Roma culture as an enriching component of the national culture and deepen social and economic interactions between the Roma community and the population at large.

80. Lithuania, like several Eastern European and in particular Baltic countries, is currently at a turning point in history. Its society is profoundly marked by the historic legacy of Soviet domination and occupation, which affected, albeit to different degrees, all Baltic countries. The central challenge it faces is to build a democratic, egalitarian and interactive society, taking into account both the necessity to reassert the continuity of its national identity - shaken and eroded by occupation but deeply rooted in past history - and the recognition and respect for the rights of its minorities, comprising not only historically discriminated-against communities such as the Roma, but also the Russians and other minorities that arrived during the occupation. This new identity tension, with its political and cultural expressions, requires political vision, legal vigilance and cultural creativity to foster among communities a long-lasting sense of

belonging and living together. Two principles should guide this process: respect for the historical truth and non-discrimination against minorities. History and geography are both central in this context. National and regional factors are particularly relevant as far as the Russian communities are concerned. The full respect of their rights - in terms of citizenship, language, culture and the eradication of any form of discrimination - is closely linked to their involvement and participation in the process of construction of a new multicultural nation that is fully respected by all countries in the region. As Lithuania's economy becomes more exposed to the world, a steady influx of new waves of migrants, mostly non-European, will start. A mounting challenge that Lithuania faces is therefore to prepare its society for the arrival of different peoples bearing their own ethnicity, traditions, cultures and customs. The promotion of multiculturalism is therefore the most appropriate way to transform this challenge into an opportunity of enriching the Lithuanian society with more diversity and intercultural dialogue.

## **V. RECOMMENDATIONS OF THE SPECIAL RAPPORTEUR**

81. State authorities in the executive, legislative and judiciary powers should highlight their strong political will and commitment to fight all forms of racism, racial discrimination and xenophobia in Lithuanian society and their vigilance about new challenges that arise from growing migration, multiculturalism and identity changes. It is especially important to firmly condemn any racist or xenophobic action or discourse, including by political parties and the media.

82. Lithuania has a strong heritage of multiculturalism that stems from the multi-ethnic Grand Duchy of Lithuania and continues to exist today. State authorities and civil society alike should build on these plural traditions to strengthen all actions against racism and discrimination and to promote a democratic multiculturalism that includes new minorities into Lithuanian society.

83. The Government should take steps to complement the existing legal framework with measures that would fill the protection gaps that still exist. In particular, the Criminal Code should be amended to introduce a provision that makes committing an offence with a racist motivation or aim an aggravating circumstance, allowing for a more severe punishment for perpetrators of these acts.

84. The Government should also strengthen the capacity of the Office of the Ombudsperson on Equal Opportunities to thoroughly investigate and act on allegations of racist crimes, incitement to racial hatred and all forms of racial and ethnic discrimination.

85. The Government should develop best practices and general guidelines for the prosecution of cases of incitement to racial hatred, developing clear criteria for the threshold of evidence that is required to be presented and for the investigative conduct of law enforcement conditions. Whilst developing these guidelines, the Special Rapporteur recommends that the Government fully apply the prohibition to incite racial, religious or ethnic hatred established by article 25 of the Constitution, article 20 of the International Covenant on Civil and Political Rights and article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination.

86. As already pledged by a number of State authorities, including in the discussions of the Committee on the Elimination of Racial Discrimination, Lithuania should proceed to make the voluntary declaration under article 14 of the Convention to recognize the competence of that Committee (CERD) to receive and consider individual communications of violations within its jurisdiction.

87. The Government should also develop comprehensive programmes of multicultural training and qualification in public institutions, particularly for law enforcement officials.

88. The role of the Department of National Minorities and Lithuanians Living Abroad should be strengthened, both in terms of mandate and resources. The Department should expand its activities to promote cultural expressions of minority communities and rely on its distinctive vision of multicultural integration. In particular, besides working with traditional minorities, the department should be given the capacity to have a more specific focus on new religious and ethnic communities and their integration into Lithuanian society.

89. As an integral part of the focus on new minorities, the Government should engage in efforts to prevent the emergence of Islamophobia as well as discrimination and prejudice against other religions, particularly those that were not historically present in Lithuania.

90. The Government should extend and reinforce its National Programme for the Integration of Roma in the Lithuanian Society, aiming at both promoting and respecting their cultural identity and at eradicating their social and economic marginalization, in particular poor housing conditions, the high level of dropouts and poor attainment of Roma children at school and the difficulties of Roma to access employment. The Programme should also have a strong component that focuses on non-Roma citizens, sensitizing Lithuanian society at large to Roma history and traditions, in order to eliminate the negative stigma and stereotypes with which Roma are recurrently associated. Furthermore, as many of the actions that are required to improve the living conditions in Roma settlements need to take place at the municipal level, Vilnius authorities should work in close collaboration with the national Government to follow its overarching priorities and legal obligations to grant the full enjoyment of economic, social and cultural rights to the Roma community.

91. In parallel with a political and legal strategy, the Government and civil society should adopt an intellectual, ethical and cultural strategy that addresses the deepest roots of racism, xenophobia and intolerance and is built around the promotion of reciprocal knowledge of cultures and values, the interaction among the different communities and the link between the fight against racism, xenophobia and discrimination and the long-term construction of a democratic, equalitarian and interactive multicultural society.

92. The process of building a multicultural society in Lithuania should be based on two principles: respect for the historical truth and non-discrimination against minorities. Due to historical and geographical factors, a focus on national and regional dynamics is also central. The success of this initiative will also depend on the active involvement and participation of minorities in the construction of a new multicultural nation that is fully respected by all countries in the region.

93. Civil society in Lithuania should further strengthen and reinforce its monitoring role for human rights violations, particularly in the realm of racism and discrimination. In particular, NGOs or alliances of NGOs should strive to offer potential victims with legal counsel and access to international instruments, both at the international and regional levels. This includes developing closer communication channels with treaty bodies, especially the Committee on the Elimination of Racial Discrimination, and special procedures, to bring to these mechanisms' attention allegations of violations taking place in the country.

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[1] National Census, 2001.

[2] Ibid.

[3] Lithuania is also a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and its Optional Protocol, the Convention on the Rights of the Child (CRC) and its two Optional Protocols. It has also signed the Convention on the Rights of Persons with Disabilities and its Optional Protocols. Lithuania is not a party of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

[4] European Commission against Racism and Intolerance, Third report on Lithuania, adopted on 24 June 2005.

[5] See the State party report, CERD/C/461/Add.2, para. 7.

[6] Ibid., para. 347.

[7] See ENAR Shadow Report 2006.