**28/02/2013**

**Answers of the Republic of Lithuania to the questionnaire of the Ad Hoc Committee on the elaboration of complementary standards to the International Convention on the Elimination of All Forms of Racial Discrimination (paragraph 4 of A.HRC.21/30)**

*ii. How is xenophobia addressed in your country (include any legal and judicial frameworks and practices, substantive and procedural measures)?*

*iii. Which national mechanism(s) with competences to protect against and prevent all forms and manifestations of racism, racial discrimination, xenophobia and related intolerance does your country have in place? Kindly indicate the(ir) mandate(s) and powers, including any proposals for improvement on the basis of national experience.*

The regulation of racial and xenophobic incidents and discriminatory acts to ensure proper and effective recognition of such facts or manifestations having their characteristics, their evaluation, offender identification and criminal prosecution as well as criminal sanctions (application thereof to a concrete offender) is governed by the current Criminal Code of the Republic of Lithuania.

The Criminal Code of the Republic of Lithuania establishes criminal liability for criminal acts against personal equality and freedom of conscience: Art. 169 – for discrimination on grounds of nationality, race, gender, origin, religion or other group membership; Art. 170 – for the incitement (of hatred) against any national, racial, ethnic, religious or other group of persons; Art. 1701 – for the establishment and activities (including activity funding) of groups and organizations aiming at the discrimination or incitement against a group of persons; Article 1702 – for public expression of support to international crime and the crimes of the USSR or Nazi Germany against the Republic of Lithuania or its population, and for the negation or coarse trivialization of such crimes; Art. 312(2) – for desecration of a grave or another place of public respect by performing vandalous acts on burial grounds or another place of public respect, or desecration of a grave or another place of public respect due to racial, national or religious motives.

It should be noted that the Lithuanian legislature passed Law No XI-330 of 9 July 2009 amending the Criminal Code of the Republic of Lithuania 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.

Law No XI-303 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 act is committed with the aim of expressing hatred against a group of persons or a person from that group on grounds of age, gender, sexual orientation, disability, race, nationality, language, origin, social status, religion, beliefs or views. The said law introduced into the Criminal Code of the Republic of Lithuania and qualified the elements of serious and very serious crimes when 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)).

The recent trend indicates a growing number of registered acts of incitement of hatred (Article 170 of the Criminal Code of the Republic of Lithuania):

Data from the Information Technology and Communication Department under MoI:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | 2008 | 2009 | 2010 | 2011 |
| Number of registered criminal acts pursuant to Article 170 of the Criminal Code | 99 | 37 | 158 | 358 |

However, this is also related to a more active work of the law enforcement authorities in the establishment and investigation of these offences, as well as public sensitization of such offences, i.e. victims more often turn to the law enforcement authorities. It should be noted that the majority of such acts are committed online, i.e. on the Internet.

Incitement of strife in the mass media (including the internet) is incompatible with the exercise of the freedom of self-expression and the principles of information provision to the public (Article 25(4) of the Constitution of the Republic of Lithuania, Article 170 of the Criminal Code of the Republic of Lithuania). In addition, Article 19(1)(3) of the Law on the Provision of Information to the Public prohibits the publication of information inciting war or hatred, sneer, scorn, discrimination, violence, physical aggression against a group of people or against a person in that group on grounds of age, gender, sexual orientation, ethnicity, race, nationality, citizenship, language, origin, social status, religion, convictions, views or religion. Compliance with the provisions of the Law on the Provision of Information to the Public is supervised by the Journalist Ethics Inspector (a civil servant appointed for a period of five years by the Seimas of the Republic of Lithuania).

In response to the increased frequency of statements and anonymous comments encouraging strife and violence in the public domain, especially in the internet, on 15 July 2009 the Seimas of the Republic of Lithuania adopted the Law amending Law No XI-348 on the Provision of Information to the Public, which obliges, as of 1 January 2010, the Journalist Ethics Inspector to determine, on the basis of the conclusions of experts, whether or not public information announced in the mass media incites hatred on grounds of gender, sexual orientation, race, nationality, language, origin, social status, religion, convictions or views (until 1 January 2010 the law had entrusted this function to the journalist self-regulatory body, the Ethics Commission for Journalists and Publishers).

Seeking to further successfully implement the policy of equal opportunities, non-discrimination and tolerance in Lithuania, the Government of the Republic of Lithuania approved the Inter-institutional Action Plan to Promote Non-discrimination for 2012–2014 (hereinafter referred to as the Plan) by Resolution No. 1281 of 2 November 2011. The purpose of this Plan is to ensure the implementation of educational measures of non-discrimination promotion and equal opportunities, to raise legal consciousness, to increase mutual understanding and tolerance on the grounds of gender, race, nationality, language, origin, social status, faith, convictions or views, age, sexual orientation, disability, ethnicity and religion, to raise public awareness of manifestations of discrimination in Lithuania and its negative impact on opportunities for certain groups of society to actively participate in public activities under equal conditions. Having regard to the versatile nature of non-discrimination promotion policy, other institutions (the Ministry of the Interior, the National Court Administration Training Centre, the Office of Equal Opportunities Ombudsperson, and the Prosecutor General’s Office) also participate in the implementation of the Plan.

In order to identify and correct assessment of the nationalist, xenophobic, homophobic or other discriminatory grounds the Prosecutor General’s Office organizes trainings for prosecutors.

*iv. Would your country have any comments concerning Article 14 of ICERD (declaration by the State Party recognizing the competency of the Committee to receive/consider individual complaints)?*

Lithuania does not recognize the procedure for individual petitions under the International Convention on the Elimination of all Forms of Racial Discrimination. Recognition of this additional procedure is not envisaged in the near future, since the existing remedies (access to the State's domestic courts, the possibility of individual petitions to the Human Rights Committee under the International Covenant on Civil and Political Rights, as well as complaints to the European Court of Human Rights under the Convention of the Council of Europe for the Protection of Human Rights and Fundamental Freedoms) are deemed to be sufficient.

*vii. Which CERD recommendations has your country implemented with regard to national mechanisms and xenophobia, including any legal and judicial frameworks and practices, substantive and procedural measures? What has been your national experience (including challenges) in this regard?*

In order to consider and decide on the ways to implement the CERD recommendations given after the consideration of the Lithuanian report the inter-institutional commission or working group are established. In the work on the implementation of those CERD recommendations civil society is also involved. The information on the implementation is included in the next periodic national report.