

# TARGETED STAKEHOLDER CONSULTATION 2021 RULE OF LAW REPORT

## UN HUMAN RIGHTS REGIONAL OFFICE FOR EUROPE (OHCHR)

This document presents the UN Human Rights Office's contribution to the targeted stakeholder consultation held by the European Commission in 2021 in the context of the second annual rule of law report.

It is a compilation of information related to Lithuania, included in reports and documents of United Nations Treaty Bodies, Special Procedures and the Universal Periodic Review of the UN Human Rights Council, presented in a summarized manner. It also refers to statements and reports of the UN High Commissioner for Human Rights and her Office. The cited material covers the period 2018-2020.

It mentions both positive developments and challenges to the rule of law in Lithuania, as well as recommendations issued by the UN Mechanisms on how these challenges can be addressed and how the rule of law can be further strengthened.

In light of the methodology proposed by the European Commission the submission is divided in four pillars: national justice systems, anti-corruption frameworks, media pluralism and freedom and other institutional issues related to the checks and balances essential to an effective system of democratic governance.

## LITHUANIA REVIEW

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### Justice System

#### ➤ *Quality of justice*

In its 2018 concluding observations, the UN Human Rights Committee expressed concern about the legal framework providing for involuntary hospitalization and treatment of persons with psychosocial or intellectual disabilities, including without a court order. It was also concerned at provisions that allow for non-consensual surgical operations of persons with disabilities who have been deprived of their legal capacity, and at the lack of legal remedies to challenge such decisions. The Committee was concerned that the draft new Mental Health Act may not provide sufficient legal and procedural safeguards. While noting the proposed legislative amendments regarding limitation of the legal capacity of persons with disabilities, the Committee remained concerned that individuals declared legally incapacitated can challenge this decision only once per year and it was not clear how these amendments will ensure free and effective legal representation of persons deprived of legal capacity ([CCPR/C/LTU/CO/4](#), para 13).

The UN Human Rights Committee further expressed concern at the increasing length of pretrial detention and recommended that Lithuania ensure that persons deprived of liberty are provided in practice with all fundamental legal guarantees, including the right of detained

persons to be informed of and understand their rights, the right to have access to a lawyer and to adequate time and facilities for the preparation of their defence, and the right to notify a relative or person of their choice, from the very outset of deprivation of liberty([CCPR/C/LTU/CO/4](#) para 21 and 22).

In its 2019 concluding observations, the UN Committee on the Elimination of Discrimination against Women welcomed the 2019 legal aid reform providing for primary legal assistance (except in court proceedings) for all persons in vulnerable situations, including women, and secondary legal assistance in court proceedings to all victims, inter alia, of gender-based violence, including sexual and domestic violence, and hate crimes, irrespective of their financial status. However, the Committee noted that, in 2018, the Office of the Equal Opportunities Ombudsperson did not receive any complaints from women or girls with disabilities and that there was a low number of complaints of discrimination on the basis of sex or gender overall, due in part to the absence of regional and local branches of the Office. In the light of its general recommendation No. 33 (2015) on women's access to justice, the Committee recommended Lithuania to ensure full access to justice for disadvantaged or marginalized groups; raise awareness among women of the remedies available to them to claim violations of their rights under the Convention; and expand the scope of the Office of the Equal Opportunities Ombudsperson so as to facilitate access to justice for all women at the regional and local levels ([CEDAW/C/LTU/CO/6](#), para 12 and 13).

In its 2019 concluding observations, the UN Committee on the Elimination of Racial Discrimination noted with concern that, while efforts to train law enforcement and judicial officers have been made in the past few years, the number of professionals trained remained low ([CERD/C/LTU/CO/9-10](#), para 14).

➤ **Other**

In its 2019 concluding observations, the UN Committee on the Elimination of Discrimination against Women welcomed efforts by Lithuania to combat trafficking in persons, in particular women and girls. However, it was concerned about the insufficient protection of victims of trafficking, including women, during the investigation and trial stage, and the lack of comprehensive information and comprehensible data on the number of investigations, prosecutions and convictions of perpetrators of trafficking and the sentences imposed on them. The Committee also regretted the lack of information as to whether women who are exploited in prostitution are recognized as victims and whether their identity is protected, including when they are called as witnesses in criminal proceedings ([CEDAW/C/LTU/CO/6](#), para 24,26).

In its 2019 concluding observations, the UN Committee on the Elimination of Racial Discrimination was concerned about the low level of reporting of hate speech and hate crimes in Lithuania and about the fact that these crimes are not always registered and investigated as such. The Committee was also concerned about the lack of available data on pretrial investigations for hate speech and incitement to hatred involving politicians or the media, including on the Internet, and recalling its general recommendation No. 35, it recommended that Lithuania collect such statistics. The Committee was further concerned that the data on

cases relating to discrimination, hate speech and hate crimes, particularly cases relating to several articles of the Criminal Code, were not disaggregated by prohibited grounds. ([CERD/C/LTU/CO/9-10](#), para 13, 14).

In its 2019 concluding observations, the Committee on the Elimination of Racial Discrimination expressed concern that the current law on compensation for victims of violent crimes does not include the crimes defined in articles 169, 170 and 171 of the Criminal Code, hence excluding the victims of racially motivated crimes from reparation under the Fund for Victims of Crime. Noting that Lithuania was in the process of amending its legislation relating to the compensation of victims of violent crimes to bring it in line with European Union requirements, the Committee recommended that Lithuania include compensation to victims of discrimination and incitement to hatred in accordance with articles 169, 170 and 171 of the Criminal Code and the draft amendment to the Law on the Compensation of Victims of Violent Crimes ([CERD/C/LTU/CO/9-10](#), para 15 and 16).

## **Media pluralism**

### **➤ *Framework for journalists' protection***

The UN Human Rights Committee in its 2018 concluding observation remained concerned that certain legal instruments, such as the Law on the Protection of Minors against the Detrimental Effect of Public Information, may be applied, including by the Office of the Inspector of Journalist Ethics, to restrict media and other content in a manner that unduly restricts freedom of expression regarding lesbian, gay, bisexual, transgender and intersex issues and contributes to discrimination ([CCPR/C/LTU/CO/4](#), para 9).

## **Other institutional issues related to checks and balances**

### **➤ *Independent authorities***

In its 2019 concluding observations, the UN Committee on the Elimination of Racial Discrimination noted that, in 2017, the Seimas Ombudsmen's Office acquired new areas of competence by virtue of the amended Law on the Seimas Ombudsmen, and the mandate of the Office of the Equal Opportunities Ombudsperson was extended to include prevention and educational activities. However, the Committee is concerned about the limited resources allocated to these two institutions, which may hinder their capacity to adequately perform their mandate and additional competences in an independent manner. ([CERD/C/LTU/CO/9-10](#), para 7).

In its 2019 concluding observations, the UN Committee on the Elimination of Discrimination against Women expressed concern about the limited mandate of the A-Status accredited Seimas Ombudsman institution and its underfunding. It recommended that Lithuania extend the mandate of the Seimas Ombudsman to receive and make authoritative findings and recommendations on complaints brought by women, including in the private sphere, and increase its human, technical and financial resources so as to enable it to effectively carry out its mandate to promote and protect women's rights. ([CEDAW/C/LTU/CO/6](#), para 16 and 17).

➤ ***Accessibility and judicial review of administrative decisions***

In its 2018 concluding observations, the UN Human Rights Committee expressed concern about allegations of denial of entry into the territory and failure to receive and register asylum applications of persons seeking international protection at the border and in reception and detention facilities. It was concerned at reports of detention of asylum seekers at the border for up to 28 days in unsuitable conditions without judicial remedies to challenge their detention. The Committee recommended that Lithuania ensure that migrants have access to a lawyer and legal aid where the interests of justice so require and are provided with information on their rights, including at the border; and also ensure against unlawful or arbitrary detention of asylum seekers at the border, including by clarifying in the Aliens Law that the holding of asylum seekers at the border, including in the transit zones, constitutes detention with accompanying procedural and judicial guarantees ([CCPR/C/LTU/CO/4](#), para 19 and 20).

In its 2018 concluding observations, the UN Human Rights Committee expressed concern that Lithuania did not fully and comprehensively investigate the complicity of the State party and State officials in human rights violations in counter-terrorism operations, including secret detention. While welcoming Lithuania's statement that once the judgment by the European Court of Human Rights in *Abu Zubaydah v. Lithuania* is final it will be executed, the Committee was concerned at reports that public servants in Lithuania had denied the binding nature of that judgment. It further recommended Lithuania to take the appropriate measures to investigate its complicity and that of State officials in human rights violations in counter-terrorism operations, and ensure that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions and that victims have access to effective remedies ([CCPR/C/LTU/CO/4](#), para 23 and 24).

➤ ***The enabling framework for civil society***

In its 2018 concluding observations, the UN Human Rights Committee expressed concern at initiatives that would restrict and inhibit freedom of expression, including that of individuals addressing the complicity of Lithuanians in Nazi crimes against Jews and others. In particular, it was concerned at reports that the names of associations, news agencies, journalists, human rights defenders and other individuals are published in the annual Assessment of Threats to National Security by the State Security Department, and at the absence of any information regarding the criteria and procedures for such publication or its justification. It was also concerned at reports of proposed amendments to the Law on Consumer Protection which would ban the sale of material that "distorts historical facts" about the nation. The Committee recommended that Lithuania should cease publicly referring to individuals and entities that exercise their freedom of expression as "national security threats". It should ensure that all of its initiatives, legislative or otherwise, guarantee that authors, journalists, human rights defenders and other individuals and associations are able to freely exercise their right to freedom of expression, in accordance with article 19 of the Covenant and the Committee's general comment No. 34 ([CCPR/C/LTU/CO/4](#), para 27 and 28).

In its 2019 concluding observations, the UN Committee on the Elimination of Racial Discrimination recommended that Lithuania continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of and follow-up to UN reviews ([CERD/C/LTU/CO/9-10](#), para 31).