



**International Convention on the
Elimination of All Forms of Racial
Discrimination**

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-eighth session

SUMMARY RECORD OF THE 1734th MEETING,

Held at the Palais Wilson, Geneva,
on Wednesday, 22 February 2006, at 10 a.m.

Chairperson: Mr. de GOUTTES

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION
SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE
CONVENTION (agenda item 6) (*continued*)

Second and third periodic reports of Lithuania (CERD/C/461/Add.2;
HRI/CORE/1/Add.97) (*continued*)

1. *At the invitation of the Chairperson, the Lithuanian delegation took places at the Committee table.*

2. Mr. JUSYS (Lithuania) noted that many public and non-governmental organizations of Lithuania had taken part in the preparation of this periodic report.

3. Responding to the numerous questions posed by experts at the preceding meeting with regard to sociological and anthropological research conducted in Lithuania by an independent centre for the study of public opinion (paragraphs 29–30 of the State party's periodic report), the Lithuanian representative explained that the purpose of the research was to analyze the nature of the inter-ethnic relations of national minorities living in Lithuania and to ascertain the opinion of the Lithuanian population with regard to other races, religious denominations, and the most vulnerable social groups. That research was useful and enabled authorities to get a complete picture of the problem of discrimination, which, as it turned out, was not particularly relevant in Lithuania.

4. In that connection, Mr. Jusys noted that three institutions were involved in ensuring respect for human rights at the national level: the Seimas Controllers' Office, which investigated cases of abuse of office by officials of State government and administrative institutions both at the local level and the national level (paragraph 371); the Controller for the Protection of the Rights of the Child, which investigated complaints of acts or omissions that resulted in the violation of the rights of the child (paragraph 374); and the Office of the Equal Opportunities Ombudsman, which monitored compliance with the requirements of the Law on Equal Opportunities for Women and Men (paragraph 9).

5. Addressing the differences between national and ethnic minorities, the representative said that a draft law currently before the parliament defined national minorities as groups of persons from third countries who lived in Lithuania, whereas ethnic minorities were groups of Lithuanians that belonged to national ethnic communities.

6. Mr. Jusys made a clarification to the effect that less than 2,000 Roma lived in Lithuania at the moment. Acknowledging that the Roma faced problems in terms of social integration and employment, authorities nonetheless felt that those problems in Lithuania are much less acute than in other countries of Central and Eastern Europe.

7. Mr. VIDTMANN (Lithuania) added that, in terms of the question of the integration of the Roma, most of the representatives of that group living in Lithuania had integrated well into society, since they spoke the national language. With the participation of representatives of the Roma community, the Lithuanian government had developed numerous programmes to facilitate integration and job placement for Roma who were the most marginalized. In terms of education,

measures were being taken to expand the coverage of Roma children by formal education and to teach their language to teachers of early grade levels.

8. Mr. Vidtmann acknowledged that there had been an incident in Vilnius involving the refusal of representatives of Roma to comply with the demands of a street patrol that was performing a check in a counter-drug–trafficking operation. After that, a meeting took place in Vilnius that involved the chief of city police, staff members of the prosecutor’s office, narcotics officers, and representatives of the Roma community, and numerous suggestions emanated from the meeting that made it possible to avoid a repetition of such incidents in the future.

9. Speaking of measures that were being taken by the Lithuanian government to preserve the distinctive character and cultural heritage of the Roma, Mr. Vidtmann pointed out that three festivals of traditional gypsy music had taken place in recent years and that, in 2004, with the financial support of the government, a compact disk of traditional gypsy music had been released. Three more such compact disks were to go on sale soon. Furthermore, with State funding, a documentary film had been shot on the history of the Roma, and the government was also planning to create a museum of the culture and traditions of the Roma.

10. Mr. Vidtmann confirmed that the Roma call themselves as such. He explained that the Roma had switched to a sedentary lifestyle after the adoption in 1956 of a Soviet *ukase* prohibiting begging and vagrancy. Since then, most Roma lived in the cities and suburbs of Lithuania, and only a small number lived in rural areas.

11. Mr. STAMULIS (Lithuania) said that any Lithuanian citizen was entitled to lodge a complaint with the European Court of Human Rights. The increase in the number of complaints filed indicated that the public was beginning to have a better understanding of the procedure. Since Lithuania was a member of the European Union, its citizens also had the right to file with the Court of Justice of the European Communities.

12. Mr. Stamulis also explained that the question of making the declaration under Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination continued to be studied. The Ministry of Internal Affairs, in favor of Lithuania recognizing the competence of the Committee to hear individual complaints, had voiced its suggestions on that score; but the matter also affected the interests of other ministries.

13. Mr. VIDTMANN (Lithuania) noted that Lithuania had acceded to the Council of Europe’s Framework Convention for the Protection of National Minorities. Furthermore, Lithuania had concluded agreements with several neighboring countries in which many Lithuanians live, to include Poland, Belarus, Ukraine, and the Russian Federation. Those bilateral agreements on friendship and cooperation included specific provisions on the protection of national minorities. For example, the agreement with Poland contained three articles that described in detail the rights of the Lithuanian minority living in Poland, as well as the rights of the Polish minority living in Lithuania, in particular the right to the use of one’s native language, to education, and to freedom of religion, as well as to participation in public life. The problems of minorities came up regularly in the bilateral consultations and special commissions on the relations between the countries, which served as yet another guarantee of respect for the rights of minorities.

14. Ms. MILASIUTE (Lithuania) acknowledged that there continued to be some uncertainty with regard to the application of the provisions called for in the new Criminal Code in the area of racial discrimination. Three preliminary investigations had been started since late 2004, and not a single criminal case had been initiated on their basis. As for instances of residents receiving letters demanding that they leave the country, the writers of the letters were children, who, because of their age, could not be taken to court. In other instances, in which racist materials had been disseminated on the Internet or in which racist symbols had been displayed in public places, the prosecution of the guilty parties had been terminated for various reasons. Moreover, because the new Criminal Code had been adopted only quite recently, judges continued to rely on the old code, with which they were more familiar. The two codes, the differences between which were not yet clear, still needed to be precisely differentiated in the courts. Apart from those problems, it was not clear whether certain offences were subject to criminal law, or to administrative law. The application of Article 214 of the Code of Administrative Offences, which prohibited the advocacy of racism in the mass media, was also running into difficulties, because finding the proper balance between allowing freedom of speech and banning racial discrimination was proving to be very difficult. Specifically, parties adjudged guilty of violating that article had filed a complaint with the European Court of Human Rights, which had not yet handed down a decision on them.

15. Ms. Milasiute explained that the incident referred to in the third report of the European Commission against Racism and Intolerance (ECRI) involved the publication in the press of an article with anti-Semitic content. The prosecutor who had investigated the case ultimately abandoned criminal prosecution, because he felt that the alleged act came within the purview of Article 214 of the Code of Administrative Offences. The case was moved to administrative court, which found the editor-in-chief and the author of the article guilty. A higher court of cassation, guided by the principle of *non bis in idem*, ruled that the guilty parties could not be held liable twice for the same offence—first criminally, and then administratively. Although that decision was met with surprise by the public and legal experts, the case graphically demonstrated how difficult it was in deciding whether to categorize such an offence as a criminal offense, or an administrative offence. The higher administrative court ruled that the matter essentially involved one and the same offence, a ruling the prosecutor did not agree with.

16. Ms. KUDREVICIUTE (Lithuania) said that, in Lithuanian law, the term “refugees” was used in the same sense as in Section A of the first article of the 1959 Convention relating to the Status of Refugees. The fairly small number of requests for asylum stemmed from the fact that Lithuania was not so much a country of destination as it was a transit space for individuals seeking asylum in other countries. Nationality or ethnic origin was never grounds for a refusal to grant asylum, the only grounds for which either could be was if an individual had come from a country where no one was threatening him or from a third country.

17. The Lithuanian representative noted that the country had two refugee centres. The first centre was intended for individuals whose request was under review or for foreigners detained under Lithuanian law. The second centre received foreign citizens who had gotten refugee status in Lithuania, and it helped integrate them into Lithuanian society. There were no grounds whatsoever to speak of the existence of refugee prisons in the country. Unaccompanied minors were placed in the second centre. Furthermore, no one turned Chechen refugees away; 15 had received refugee

status and an additional 300 or so had temporary status. Eleven Somali refugees had been living in Lithuania for around 10 years. The duration of their stay in the country enabled them under the law to petition for residency permits. All of them had work and were being successfully integrated into society.

18. Mr. LINDGREN ALVES said that he was not trying to insinuate that the relations between Lithuania and Poland were problematic; his question had pertained to the “problems raised by Poles living in Lithuania” (paragraph 19 of the report). He was interested in getting further explanation of how Roma officially refer to themselves, since paragraph 25 of the report said that “most Roma call themselves Lithuania’s *Čigonai* (gypsies)”. From the explanations of the delegation, the speaker found it interesting to learn that the Roma were participating without any particular enthusiasm in the affirmative-action programmes created for them. In that connection, he was interested in learning whether the relations between the Roma participating in the programmes and the rest of the populace were civil, or whether that was creating some amount of friction. Moreover, he was interested in knowing whether the publications in the gypsy language accorded with the wishes of the members themselves of the Roma community, or whether they were published by the State party at the request of entities such as ECRI or the Committee on the Elimination of Racial Discrimination.

19. Mr. KJAERUM found it interesting that the makeup of the police force reflected the structure of Lithuanian society. That information was particularly useful to the Committee in assessing the situation with the minorities. The speaker was interested in learning whether such assessments had been made in other State structures and whether they were being planned for the private sector. He spoke of the existence of interesting examples in that area that were facilitating change and the integration of the most vulnerable minorities into the labour force.

20. Switching to the matter of the declaration called for in Article 14 of the Convention, Mr. Kjaerum was of the opinion that the other legal remedies mentioned by the Lithuanian delegation were not always suitable for complaints of racial discrimination. For example, the European Court of Human Rights had a very limited mandate in the area of racial discrimination, since that issue is touched upon in only one of the ancillary clauses of the European Charter. Mr. Kjaerum pointed out that the Committee on the Elimination of Racial Discrimination, which had particular competence in matters of racial discrimination, was a special authority in that area. He asked the Lithuanian delegation to point that out to the government of the country and to ministries that did not share that point of view, and he expressed the hope that Lithuania would make the declaration called for in Article 14 of the Convention before consideration of the country’s next periodic report.

21. Mr. THORNBERRY raised the question of whether the draft law that was currently being developed to amend the law on national minorities called for drawing distinctions between ethnic and national minorities, and if so, whether that would not widen the gap in the opportunities that minorities have to exercise their rights. The speaker was interested in knowing whether the State party intended to describe in its reports submitted in compliance with international treaties the specific situation of ethnic minorities. He also wished to know whether Lithuanian law contained a precise definition of the concept of “national minority” and whether the members of national minorities would have to have Lithuanian citizenship in order to exercise the rights that that status gave them.

22. Since teaching in the language of a given minority was possible if the members of that minority traditionally constituted “a substantial part of the population” (paragraph 338), Mr. Thornberry wanted to know what percentage of the total population the minority would have to constitute in order for the right to receive an education in one’s native language to be guaranteed the minority.

23. Citing the third paragraph of general recommendation XXVII on discrimination against the Roma, which called upon States parties to “respect the wishes of the Roma with regard to the name they wished to receive and the group to which they wished to belong”, and noting that the main task of the Committee consisted in not allowing their name to be forced on them or to have a pejorative overtone, Mr. Thornberry was interested in knowing what the Roma wanted to be called in Lithuania. In his opinion, that question was particularly important because during the November 2003 sociological survey conducted on the topic of “Tolerance in Lithuania”, 42% of those surveyed acknowledged that they feel animosity toward the Roma.

24. Mr. YUTZIS noted that, like the Roma, the Tatars, Germans, and Jews constituted roughly 0.1% of the country’s population, but there was neither tension nor conflicts associated with those minorities. In his opinion, in order for the integration of minorities to be successful, the distinctions needed to be preserved, but the inequality eliminated, which was not true of the Roma population, which, as before, found itself in an adverse socio-economic situation.

25. Mr. Yutzis thanked the delegation for the additional information it provided the Committee on criminal proceedings and suggested that it direct its attention to the draft general recommendation of the Committee on preventing racial discrimination in the administration of criminal justice (CERD/C/GC/0031/Rev.4 (not yet published)).

26. The CHAIRPERSON, speaking as an expert, called upon the State party to include a standard in criminal law to qualify a racial overtone in an offence as an aggravating circumstance. He suggested that it make the declaration under Article 14 of the Convention, which, in matters of racial discrimination, had a much broader application than did the Covenant on Civil and Political Rights or the European Convention on Human Rights, especially since the State party had not ratified Protocol No. 12 to that Convention, which expanded the purview of the principle of equality and non-discrimination.

27. Mr. ABOUL-NASR felt that it did not behoove a United Nations treaty body to be making reference to regional conventions and that the declaration called for under Article 14 of the Convention was optional. For that reason, members of the Committee should not be exerting pressure on the State party by insisting that it make the declaration.

28. Mr. JUSYS (Lithuania) noted with satisfaction that, in Lithuania, when domestic legal remedies were exhausted, international authorities, primarily the European Court, were being utilized more and more. The speaker took note of the comments of the Committee members calling upon his country to make the declaration under Article 14 of the Convention and promised to bring the matter up for interdepartmental discussion.

29. Mr. VIDTMANN (Lithuania) said that there were no data on the percentage represented by national minorities in civil service and in government institutions,

because no one is obliged to indicate his or her ethnic background when applying for a job. At the same time, he said that all national groups were represented in State structures. Furthermore, national minorities were represented in the Seimas and in all local bodies of authority, particularly in regions where most of the population happened to consist of minorities, such as in Vilnius.

30. According to Mr. Vidtmann, minorities were well integrated into Lithuanian society, as indicated by their overall high level of education and their good command of the State language. That primarily pertained to Poles and Russians, who, for the most part, had an excellent command of Lithuanian.

31. As for the Roma, who, based on the results of the sociological survey, had been labeled the most vulnerable group of the population of Lithuania, the speaker noted that, in order to correct the situation that had come about, measures were being taken to expand their participation in the labour force and to guarantee them equal opportunities in that area. Finally, the speaker noted that, except in cases in which the Roma wanted to emphasize their historical affiliation with their people, they preferred being called “Roma”, and not “gypsies”.

32. Ms. SLIUZIENE (Lithuania) said that the Law on Equal Opportunities for Women and Men was adopted in 1998, and numerous amendments were made to it in early 2005. For many years already, Lithuania had been doing everything possible to ensure equality of the sexes, and the Equal Opportunities Ombudsman had already done impressive work in that area. The Ombudsman was responsible for the following: monitoring adherence to the principle of equal rights and opportunities for men and women, investigating alleged cases of discrimination at the request of individuals or upon its own initiative, monitoring the application of the law on equal opportunities by administrative and governmental institutions, tracking cases involving the publication of discriminatory materials in the mass media and generating recommendations for amending legislation that ensures equal rights. The number of complaints filed with the Ombudsman (at least 100 in 2005) was growing steadily, which would lead one to conclude that the Lithuanian population was ever-better informed in terms of its rights and the legal remedies at hand if those rights were violated. The Ombudsman was obliged to submit to the parliament an annual report that included information on the application of the law on equal opportunities and on the nature of the complaints received by the office, plus recommendations on how to improve the situation regarding equality of the sexes. The equal rights and opportunities law, with the amendments incorporated in 2005, expanded the powers of the Ombudsman, provided for affirmative-action measures for women, and confirmed the obligation of all State bodies, both local and national, to facilitate the equal rights of men and women in the context of the policies they implement. In conclusion, Ms. Sliuziene stressed that 20% of the Lithuanian parliament consisted of women, which was a rather high percentage by comparison with other European countries.

33. Ms. KUDREVICIUTE (Lithuania) said the Lithuania government, being quite well aware of the scale of the problem of human trafficking in the country, had developed for 2005–2008 an expansive programme for preventing and eradicating that phenomenon. In addition to that, it had incorporated a number of amendments into the Criminal Code, providing a new definition for trafficking in adults and children and making the punishment for that harsher. Henceforth, guilty parties could be sentenced to up to 12 years in prison for trafficking in minors and up to 15

years for trafficking in children. Punishment was also made much harsher for forced labour and prostitution, which are often closely tied to human trafficking. In 2005, a total of 25 criminal cases were initiated for human trafficking, and 18 of them were brought to a close via judicial proceedings. Guilty verdicts were handed down in them for 15 persons. As for assistance for the victims, 12 centres were operating in Lithuania for approximately 300 victims, including minors, and efforts were being made to integrate them in society and provide them a formal education. In terms of preventive work, Lithuania, in cooperation with its European neighbors, had organized a number of seminars and round tables.

34. Mr. JUSYS (Lithuania) stressed that Lithuania, which was at the crossroads between East and West, was unable to combat human trafficking by itself and hoped for cooperation with other countries. He explained specifically that the large number of Lithuanians both among the victims and among the parties guilty of human trafficking stemmed from the fact that many of the people involved used forged Lithuanian passports, but were citizens of neighboring countries.

35. Mr. VIDTMANN (Lithuania) said that the draft law on national and ethnic minorities did not aim in any way to make a distinction between minorities, particularly as regards their representation in State bodies. Lithuania was confident that all its citizens were equal, regardless of their origin, and that they should enjoy the same fundamental rights.

36. Mr. AMIR (Rapporteur on Lithuania) gave his warm thanks to the delegation for their exhaustive responses to the questions posed by the Committee members and gave high marks to the efforts of the authorities in Lithuania, whose laws on discrimination and human rights were among the most progressive of all the laws that the Committee had had the opportunity to consider. Obviously, a good many social problems were yet to be resolved, but an immense amount of work had already been done since the country had gained its independence. Mr. Amir made particular note of the fact that Lithuania, over the span of just a few years, had managed to make radical changes to its body of law. Finally, the Rapporteur also called upon the international community to help Lithuania move farther along on the path of democracy and respect for human rights.

37. Mr. JUSYS (Lithuania) said that his country's delegation had listened with great interest to the comments and recommendations of the Committee members and that the delegation would point out to the competent Lithuanian authorities the gaps that were laid bare by the experts. At any rate, Lithuania intended henceforth to maintain a close, constructive dialogue with the Committee.

38. The CHAIRPERSON declared that, with that, the Committee had completed its consideration of the second and third periodic reports of Lithuania.

39. *The delegation of Lithuania withdrew.*

The meeting rose at 1 p.m.