

Asociacija
Pagrindinių teisių tyrimo ir
gynimo centras



Association
Centre for Research and
Protection of Fundamental
Rights

Report

for the Supplementary Human Dimension Meeting
"OSCE contribution to the protection of national minorities"

Dear Mr. Moderator, dear participants of the conference!

We would like to once again draw attention to the fact that "...respect for the rights of persons belonging to national minorities as part of universally recognized human rights is an essential factor for peace, justice, stability and democracy in the participating States".¹

Lithuania was the first country in Central and Eastern Europe, to adopt a law "On the National Minorities", in 1989. A Department of migration and national minorities was formed under the government. Its main task was to take care of the needs of minorities, the preservation of the national identity of each ethnic group in the Lithuanian State.

Over time, the situation has changed. In 2010, Lithuania repealed the law "On National Minorities"; a new law has not yet been adopted. In 2009, the Government abolished the Department of migration and ethnic minorities, and its functions were transferred to a unit of the Lithuanian Ministry of Culture. This does not fully comply with the human rights obligations of Lithuania².

We thank Lithuania for the fact that this year, the Department has been re-established. Lithuania's national minorities lay their hopes at its activities.

¹ CSCE Copenhagen Document (1990). Para. 30

² List of international treaties ratified by Lithuania

http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=LTU&Lang=RU

We welcome the efforts of the Lithuania on minority education, which took place in the early 90s. (In 1991 a Jewish school was created, in 1992, a German one, in 1994 –a Belarusian one; besides, a high school with English language of instruction was created in Vilnius).

However, the current situation with the rights of national minorities still remains acute and causes concern.

We bring to your attention the situation with Russian schools. In 1990, there were 85 schools with Russian language of instruction and 103 schools with several languages of instruction, including Russian. The number of students receiving education in Russian was over 76,000, and in these schools, the Russian-speaking minority could obtain full secondary education.

Currently, there are 32 schools (and only at 11 of those one can receive full secondary education) and 22 schools with several languages of instruction. The number of students - 14 115 people. It fell more than fivefold.

We are pleased with the trend of the past three years, - a growing number of students in Russian schools.

After the restoration of Lithuania's independence in 1990, a reform of the education system, including schools teaching in national minority languages, began. This is evidenced by the Law "On Amendments to the Law On Education" No. IX-1630, of June 17, 2003.

At the time of adoption, this law was the most democratic in the post-Soviet space, it gave an opportunity to receive secondary education in one's mother tongue, - Article 30 of the Law on Education No. IX-1630, of 17 June 2003.

The new version of the Law on Education, No. XI-1281 of July 1, 2011, provides for a gradual Lithuanization of minority schools. In the law, there is no concept of "national minority schools". Thus, in accordance with the new Law on Education, No. XI-1281 of 1 July 2011, in Lithuania there are schools with the Lithuanian language of instruction and schools with partial instruction in the languages of national minorities.

The new wording of the Law on Education of 2011 was adopted without taking into account the views of Russian and Polish communities, who gathered more than 60,000 signatures against it, prior to the vote in the Parliament.³ It lacks the notion of "national minority schools". Accordingly, schools with minority language of instruction are subject to the same standards of forming classes, as Lithuanian schools. If the previous version of the law contained a provision on the right to secondary education (from grade 1 to 12) in one's native language, in a new

³The Charter of Paris for a New Europe of 21 November, 1990, provides that CSCE participating states commit to improve the situation of national minorities – not to worsen it. The document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, in Para. 33, provides that they "take the necessary measures to that effect after due consultations, including contact with organizations or associations of such minorities", aiming to protect the minorities.

version, that provision is absent. Now curricula are the same for all schools. An exception is the native language in national minority schools.

As a result, according to the National Examination Center under the Ministry of Education and Science of Lithuania, at the time of the unified state examination in the Lithuanian language, without a transition period, the percentage of national minority schools students who fail the exam is increasing every year.⁴ A matter of concern is that young people are forced to leave the country and go to study in universities in other countries, in order to realize their opportunities.

The laws of the Republic of Lithuania provide for the creation of conditions for studying the native language, history and culture for students of secondary schools and non-formal education bodies, with institutionalized learning in the language of national minorities and in-depth study of their culture. The recommendations on organizing learning minority languages in secondary schools provide that during educating children belonging to national minorities in a language which isn't their native, learning their native language is dealt with the same way as learning a foreign language, and providing it is dependent on presence of a specialist teacher for the study of the language. For example, paragraph 74 of the program of basic and secondary education for 2011-2013 stated those children belonging to national minorities, who study in schools that provide instruction in a non-native language, can learn their native minority language of as a chosen subject, in the event that a group of at least 5 people is completed and there is a teacher-linguist for that particular language.

We are pleased with the attempt of the education department of the Vilnius city administration to create opportunities for children of Russian-speaking minority studying in Lithuanian schools, to learn Russian as a mother tongue; Russian community hopes that this innovation will be implemented.

It is a cause for concern, that since 1991 (after the adoption of the Act of 11 March 1990 on the restoration of independence) Lithuanian universities do not prepare teachers for Russian schools, with the exception of primary school teachers and Russian language teachers. For over 10 years, Siauliai University does not offer one to specialize as a primary school teacher for Russian schools; Vilnius Pedagogical University (now - Lithuanian University of Educational Sciences) has not prepared primary school teachers for the Russian schools, either. Since 2009, neither the Vilnius University nor the Lithuanian University of Educational Sciences offer to prepare teachers of Russian language as a native one.

Currently, Lithuania does not prepare teachers for Russian schools.

⁴According to the data of the National Examinations Centre under the Lithuanian Ministry of Education and Science, 6.48 % of the students of national minority schools failed the state exam in Lithuanian language in 2012. In 2013, after the introduction (without a transitory period) of the unified exam, the percentage of failures, with more lax requirements for passing, was 11.17. In 2014, despite a more lax criterion of grading (the number of mistakes allowed) and more hours dedicated to the official language, the percentage of those failing the exam was 16.3.

The average age of teachers of Russian schools - 50-55 years. In accordance to the labor law, the retirement age in Lithuania is 65 years for women and 67 for men. Already in 2014, two Vilnius schools faced a very difficult problem of finding a primary school teacher.

It is of concern that the number of persons belonging to national minorities is falling (Annex 1). The same five-percent threshold is applied for minorities at the election, as for the titular nation, without taking into account the fact that only the Polish community currently exceeds this threshold. This contradicts paragraph 58 and the basic spirit and provisions of the PACE Resolution number 1547 (2007). We are concerned that in the future, the national minorities will lose the opportunity to participate effectively in the democratic decision-making process and to be adequately represented in government bodies.⁵

The recurring prohibitions on rebroadcasting channels from Russia, which contradict the notion of freedom of speech in the media, are also a matter of concern. This has been repeatedly pointed out, as a violation, by Dunja Mijatovic, the OSCE Representative on Freedom of the Media.

In respect of almost all Russian-language weeklies, there is pressure exerted. The leading weekly publications are described in the reports by the State Security Department of Lithuania for the last few years, as an instrument of the aggressive policy of Russia, which inevitably leads to the elimination of Russian-language weekly publications in Lithuania.

Some Russian-speakers' organizations in Lithuania are under pressure, too. They are listed in the reports by the State Security Department of Lithuania for 2013, 2014 and 2015, as an instrument of the aggressive policy of Russia. The pressure is exerted on cultural projects aiming to support and develop the Russian language in Lithuania; they are branded as an instrument of the aggressive policy of soft power of Russia. There is stigmatization of the Russian schools of Lithuania and of human rights activism by national minorities. However, the Lithuanian Ministry of Foreign Affairs supports more than 200 activities in the framework of the "Global Lithuania" project annually, aimed to support Lithuanian compatriots living abroad. This mixed assessment of cultural events by Russian-speaking residents of Lithuania can be regarded as the application of double standards, due to the fact that any opinion different from the mainstream gets designated as libelous, propaganda and unlawful.

The Center and the Baltic Youth Association «Juvenis» have hosted the international forum "Ethnic nationalism - a threat to security and stability in the world." The forum was held with the financial support of Lithuanian citizens who have made donations to organize the forum, since this topic is relevant in society. Contrary to the view formed by some Baltic politicians, the event was not financed neither by the Russian Embassy in Lithuania, nor the Consulate-General of Russia in Klaipeda, nor by any Russian foundations. The event was held in the house «Simon-Dach-Haus» (Klaipeda city, German Information and Cultural Centre).

⁵ As it is foreseen in Para. 39 of Ljubljana Guidelines

Guests from Estonia, Moldova, Poland, Russia, Latvia, England, Germany, Israel, France, Tajikistan, China and the Netherlands were invited to participate. The visitors were not chosen randomly; the organizers tried to gather different views on nationalism, because it is in disputes, where the truth is found. Human rights activists, politicians, journalists, scientists, public figures, politicians at the forum were to discuss the fundamental question: how to distinguish patriotism and nationalism, where the boundaries between these concepts lie, to develop clear definitions. The second issue before the participants of the forum was to develop ways to effectively counteract those manifestations of nationalism, which lead to discrimination, chauvinism, racism, etc. The third question was to find out the causes of the attractiveness of skinhead movement for young people and to identify methods to combat them. This is a problem in Lithuania, as in 2015, only one court decision was adopted to deny employment in the public service to a figure from skinhead movement. In general, there are very few cases of state resistance to "hate speech" in Lithuania. Among the objectives of the forum, there was also developing international projects to inform the youth about human rights, democratic institutions and cross-cultural cooperation. And finally, it was necessary to develop a strategy for the development of international youth activities aimed at raising awareness of the discriminatory nature of skinhead movements, their destabilizing role in society and the threat to Security and Cooperation in the world.

The forum had invited foreign diplomats, members of the clergy, representatives of veterans' organizations, who fought on the side of the Allies, honorary consuls, the chairs of national minority communities of the city.

During the preparation of the forum, organizers and participants were not aware of the ban on entry into the Republic of Lithuania, even more so that, for example, Alexander Kuzmin, at the end of this July, crossed the Russian-Lithuanian border. During the crossing, he was not informed of the ban, same as other participants, who visited Lithuania several times during the two months before the forum. The list of persons, who are denied entry to the territory of Lithuania, is not available because it is not published anywhere, and information about the ban is not sent to the persons.

Taking this into account, there is no evidence to suggest that the organizers were aware of the ban on entry to the forum participants. Therefore, the statements of some politicians about the provocations on the part of the organizers are absurd and false.

On August 24, on arrival, the forum participants began to receive notices about the ban on entry into the Republic of Lithuania for 5 years, with the requirement to leave the country immediately. Among the expelled persons, there was Alexander Kuzmin, a human rights activist and assistant of a MEP.

They were refused entry on the basis of paragraph 2¹ of Article 133 of the law "On the Legal Status of Aliens". This provision states that the citizens of the memberstates of the European Union may be refused entry into the country if their "entry into and stay in the Republic of Lithuania may represent a threat to national security or public policy".

We could not find out, what kind of threat was presented, for example, by Alexander Kuzmin - a human rights activist, member of the board of the Latvian Human Rights Committee and an assistant of a MEP.

The ban is a violation of European Union law, in particular the EU Directive on the free movement of persons (2004/38 / EC), which guarantees the freedom of movement of EU citizens in other EU countries.

Although the Directive provides for an exception in rare circumstances for national security, according to it, the country must justify the ban, inform the person of the reasons for the ban and of the possibility to appeal against the ban in court.

On the request for a copy of the decision to ban the entry, the Migration Department of the Ministry of Interior responded by requiring the banned persons to provide a copy of an identity document, certified by a notary or in an equivalent way. However, in Latvia, certifying copies of identity documents is prohibited by Section 6 of the Law on the Legal Force of Documents, and at the consular offices of the Republic of Lithuania in Latvia and Poland, Kuzmin was denied the service.

We want to draw the attention of the OSCE on this trend of suppressing dissent, the ban on contacts for the studying and discussing human rights and fundamental freedoms issues and for improving the protection of human rights.⁶ Such notifications banning the entry of Lithuania get issued to journalists, historians, public figures, human rights activists, anti-fascists.

Due to the fact that after the first expulsions, one had to inform the participants of the forum about the possible failure of the event, the organizers perceive it as a provocation by the authorities. Therefore, for security purposes (as there was no certainty that all the participants who have not yet arrived, when given notices banning them from staying in the Republic of Lithuania will have the opportunity to leave the country before midnight), forum's agenda has been reduced to one day, and some participants were offered to connect via Internet for their presentations and discussions. Presentations by participants from Estonia, Moldova, Poland, Latvia, Russia and Belarus were heard, and issues relevant both for the former Soviet Union and for the European Union were discussed. The very issue of banning entry to Lithuania was not

⁶Which contradicts Paragraphs 10.2, 10.3 and 10.4 of the Copenhagen Document

discussed, because we have decided to solve the envisaged tasks of the forum, thus resisting the provocation.

During the forum, it was established that: the topic is important and relevant to modern society, it is necessary to address the topic, to bring it to the international level and to attract an even greater number of specialists from different countries to the issue. The participants did not violate the Lithuanian law, they based their actions on international law, which has precedence over national legislation.

In September and October, the gravest crimes department of the criminal police carried out the inspection, at the request of the mayor of the city of Klaipeda, on whether we had the right to organize such a human rights event.

Recommendations to participating states:

1) To observe and implement in national legislation the ratified international legal instruments, both universal and regional, relating to the protection of minority rights, justice and non-discrimination.

Recommendations for Lithuania:

1) To take measures to change the legislation on the rights of minorities, only after proper consultation with minorities, including contacts with organizations and human rights associations of such minorities.

2) To accelerate the adoption of the new Law on National Minorities, and up to this point to take effective measures to ensure the full protection of the rights of national minorities, including their language, religion, culture and identity, including the use of their names in their original form.

3) To ensure that national minorities have the right to education in their mother tongue. To do this, to define the notion of "minority schools", to amend the Law on Education, which restricted the use of minority languages in state-funded schools, by restoring the order prior to this law, including to revise the requirement for the unified state exam, in order for the percentage of the representatives of national minorities, who do not pass the unified exam, to begin to decline.

4) If necessary, according to the request of the ethnic community, to contribute to the preparation of teachers for minority schools.

5) To ratify the European Charter for Regional or Minority Languages, the UNESCO Convention against Discrimination in Education and the 12th Protocol to the European Convention on Human Rights.

6) To establish a lower electoral threshold for parties and organizations of national minorities. To provide the ability to create lists of national minorities, which would have the rights of a party, in the parliamentary elections, as it is provided for in forming lists for the municipal elections and elections to the European Parliament.

7) Not to create obstacles to the dissemination of information, and access to it in one's own language.

8) To take effective measures to combat prejudice and xenophobia in the media and on the Internet;

9) To provide public with information on prosecutions and convictions based on the legal provisions on the criminal responsibility for participation in the activities of groups and organizations that promote racial hatred and discrimination.

10) Not to interfere with human rights education activities, aimed at drawing the attention of the youth to the fact that those organizations violate the rights of minorities and can promote discrimination and division of society.

11) To conduct of regular courses on human rights and minority rights in executive, investigative and national security bodies, to improve competence in the fight against discrimination.

12) To respect the freedom of movement of human rights defenders and to encourage the activities of human rights defenders.

13) To establish a procedure for issuing notices to foreigners on banning their entry to Lithuania corresponding to the requirements of the EU directive on the freedom of movement (to provide for a different procedure for filing a complaint for foreigners living abroad, as in accordance to the laws of many countries, notarization of identity documents is prohibited) and in such a way, to ensure access to justice.

14) To promote dialogue with civil society organizations and organizations working in defense of human rights and minority rights. To require the State Security Department in its reports to analyze the hate crimes and violations, rather than speculate on law-abiding activities of human rights defenders, community leaders, the Russian-language media of Lithuania and Russian schools, which work on the integration of diverse societies in accordance with the Ljubljana Guidelines.

Thank you for the attention!

Yours faithfully,

Oksana Bekeriene

Head of the "Center for Research and Protection of Fundamental Rights."

Ethnicity	1989		2011	
	total	%	total	%
Bcero	3 674 802	100.00	3 043 629	100.00
Lithuanians	2 924 251	79.58	2 561 314	84.16
Poles	257 994	7.02	200 317	6.58
Russains	344 455	9.37	176 913	5.81
Belarusians	63 169	1.72	36 227	1.19
Ukrainians	44 789	1.22	16 423	0.54
Jews	12 392	0.34	3 050	0.10
Tatars	5 188	0.14	2 793	0.09
Germans	2 058	0.06	2 418	0.08
Roma	2 718	0.07	2 115	0.07
Latvians	4 229	0.11	2 025	0.07
Armenians	1 655	0.04	1 233	0.04
Azerbaijanis	1 314	0.04	648	0.02
Moldovans	1 450	0.04	540	0.02
Georgians	658	0.02	372	0.01
Estonians	598	0.01	314	0.01
Karaims	289	0.01	241	0.01
Other ethnicities	7 595	0.21	3 508	0.12