

Lithuania

Seimas Ombudsmen's Office

International accreditation status and SCA recommendations

The Lithuanian NHRI was accredited with A status in March 2017. The SCA acknowledged the cooperation of the NHRI with other Ombuds institutions in Lithuania, and encouraged the NHRI to continue, develop and formalise similar working relations with national bodies.

Impact of 2020 rule of law reporting

Follow-up by State authorities

There has not been any direct follow-up action that could be traced back to the 2020 ENNHRI Rule of Law Report.

Follow-up initiatives by the Institution

As part of the Seimas Ombudsmen's work, the issues raised by the Seimas Ombudsmen in the 2020 ENNHRI Rule of Law Report have been presented to its stakeholders.

Independence and effectiveness of NHRIs

Changes in the regulatory framework applicable to the Institution

Since 23 March 2017, when the Seimas Ombudsmen's Office has become an accredited NHRI (Status "A"), the Seimas of the Republic of Lithuania adopted the Law (entered into force on 1 January 2018) amending Articles 3, 19 and 19 of the Law on the Seimas Ombudsmen no. VIII-950 and adding Article 19. which defined new areas of competence of the Seimas Ombudsmen in the exercise of the functions attributable to the National Human Rights Institution:

- to carry out human rights monitoring in Lithuania and to prepare reports on the human rights situation;
- to perform dissemination of information on human rights and public education on human rights;
- to present assessment of the human rights situation in Lithuania to international organizations and to provide them with information in accordance with the obligations established in the international treaties of the Republic of Lithuania;

- to make proposals to state and municipal institutions and bodies on human rights issues;
- to seek harmonization of national legislation with the international obligations of the Republic of Lithuania in the field of human rights;
- initiate investigations into fundamental human rights issues.

This national regulatory framework has not changed since the 2020 ENNHRI Rule of Law Report.

Enabling space

The Seimas Ombudsmen's Office is in capacity to carry out its mandates and is happy to acknowledge that its recommendations are taken into account in 95% of cases.

Human rights defenders and civil society space

The Seimas Ombudsmen's Office observes the situation regarding the civil society and maintains a close relation with NGOs and CSOs, which includes both bilateral and multilateral meetings as well as consultations and joint initiatives.

As concerns freedom of assembly, it should be noted, that for example when rating total protection of the LGBT+ rights in Lithuania, the freedom of assembly and expression was given the best rating (even 83 %) by the international organisation "ILGA-Europe".

The general day-to-day human rights work of the Seimas Ombudsmen is, inter alia, geared towards making sure that the civic space is indeed defended. Moreover, the Seimas Ombudsmen react to restrictions and also use their mandate to prevent disproportionate restrictions.

Checks and balances

In accordance with the Article 19(8) of the Law on the Seimas Ombudsmen, the Seimas Ombudsmen can recommend to the Seimas, state or municipal institutions and agencies to amend the laws or other statutory acts which restrict human rights and freedoms and acting as a national human rights institution - to bring national legislation in line with the international obligations of the Republic of Lithuania in the area of human rights (Article 192 (2)(5)). Below are a number of examples of legal assessment carried out by the Seimas Ombudsmen and related amendments proposed in recent years.

The Seimas Ombudsmen's Office analysed the proposed amendments to the Law on Intelligence of the Republic of Lithuania. The Seimas Ombudsman stated that the provisions of the Law on Intelligence in force during the investigation regarding guarantees of protection of personal rights are not sufficient, and that such regulation, when the person's right of appeal is not guaranteed, is

inappropriate and raises doubts as to whether the mechanism of control of the activities of the SSD established in the legal system of the country complies with the essential principles of extrajudicial control and ensures the protection of the values enshrined in Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. In this context, the Seimas Ombudsman recommended that the Prime Minister initiate the amendment/supplement to the Law of the Republic of Lithuania on Intelligence, setting maximum time limits for the application of intelligence methods, conditions for the destruction of information collected by the SSD and the possibility for individuals to effectively defend their rights in court. The Seimas Ombudsman also recommended to the Director of the SSD that control of activities of the SSD officials should also include the control over compliance with the standards of protection of human rights and freedoms in the activities of this Department. Amendments to the Law of the Republic of Lithuania on Intelligence are currently being prepared taking into account the recommendations of the Seimas Ombudsman.

The Seimas Ombudsmen's Office also carried out, within its remit, legal assessment of the provisions of the Law of the Republic of Lithuania on Mediation relating to the application of compulsory mediation in family disputes from the point of view of ensuring human rights and freedoms and, in this regard, submitted its position by Letter No 1/3D-290 of 3 February 2020 to the Government of the Republic of Lithuania, the Seimas Committee on Human Rights and the association "Vilnius Women's House".

Moreover, the Seimas Ombudsmen's Office performed legal assessment of the Draft Law No 20-15061, Amending Law No XI-1425 of the Republic of Lithuania on Protection against Domestic Violence, the Draft Law No 20-15062, Amending Articles 489, 589 of the Code of Administrative Offences of the Republic of Lithuania and Supplementing the Code with Article 4891, and the Draft Law No 20-15064, Amending Article 23 of the Law No I-1234 on the Protection of the Rights of the Child, and Draft Law No 20-15061, Amending Law No XI-1425 of the Republic of Lithuania on Protection against Domestic Violence in respect of ensuring human rights and freedoms and, by Letter on the Draft Law, Amending Law No XI-1425 of the Republic of Lithuania on Protection against Domestic Violence of 23 November 2020, presented its position on these draft legal acts to the Seimas Committees on Human Rights, Social Affairs and Labour and Legal Affairs, the Government and the Ministry of Social Security and Labour.

Finally, it should be noted that since amendments of human rights related legal regulation are forward-looking and apply to everyone they resolve problems not only of a complainant but of a certain group of the society.

References

- Statement No 4D-2017/1-813 of the Seimas Ombudsman of 20 August 2019
- Letter No 1/3D-968 of the Seimas Ombudsman of the Republic of Lithuania of 14 April 2020 on the ensuring of human rights during the quarantine
- The investigation into physical abuse by law enforcement officers see Report No NŽTI-2019/1-1 of 21 February 2020. Report No NTI-2019/1-1 of the Seimas Ombudsmen’s Office of 21 February 2020 on fundamental human rights issues arising from the use of physical violence by law enforcement officers in their activities, link: [fundamental human rights issues – LRSKĮ \(Irski.lt\)](#).

Functioning of justice systems

The Seimas Ombudsman, taking into account the international obligations of the Republic of Lithuania to ensure the right of all persons to apply to the courts on environmental matters in accordance with Articles 1, 3 and 9 of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in the Environmental Matters, initiated an investigation into the fundamental human rights issues in the field of access to justice in Lithuania. The investigation is aimed at determining whether the provisions of the existing national legal acts providing for the right of persons to apply to the courts are sufficient to ensure the implementation of Lithuania’s international obligations in the field of environmental protection, how the right of the public access to justice in Lithuania is realised and what possible major problems arise in this field.

Media pluralism and freedom of expression

As early as 30 November 2018, the Seimas Ombudsmen’s Office submitted their position to the Seimas on the matter of the freedom of expression while ensuring the independence of the public broadcaster. Without assessing the specific proposals of the Seimas Temporary Investigation Commission, the Seimas Ombudsman spoke about the need to protect freedom of speech and expression guaranteed by the Constitution and the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter – the ECHRFF) in ensuring the independence of the national broadcaster. In his opinion, the Seimas Ombudsman noted that Article 10 of the ECHR, which enshrines the right to freedom of expression, includes, inter alia, the freedom of the press, radio and television, since there is no democratic society without a free and

abundant press. The Seimas Ombudsman also pointed out that in the case of the European Court of Human Rights (hereinafter also the ECHR) *Manole et al. vs Moldova* stressed the importance of the independence of public service broadcaster's supervisory authorities established by law from political and economic impact.

In its Ruling of 23 October 2002, the Constitutional Court of the Republic of Lithuania stated that constitutional freedom of unhindered searching for, receiving and disseminating information and ideas is one of the foundations of an open, just, harmonious civil society and a democratic state. This freedom is an important prerequisite for the exercise of the various rights and freedoms of a person enshrined in the Constitution, as a person can fully exercise many of his constitutional rights and freedoms only with the freedom to search, receive and disseminate information unhindered. The Constitutional Court also noted that the values enshrined in the Constitution form a harmonious system and are well-balanced. According to the Constitution, it is not possible to establish a balance between constitutional values of legal regulation which, by establishing guarantees for the exercise of freedom of information by law, would create conditions for violating other constitutional values.

The Seimas Ombudsmen's Office has drawn attention to media and privacy as well as freedom of information in its latest Annual Report. It has done so also during the state of emergency.

The Seimas Ombudsmen's Office prepared and, on 27 June 2019, submitted to the Ministry of Justice the Comments on the ratification of the Protocol amending the Convention for the Protection of Individuals with regard to Automated Processing of Personal Data and, during the quarantine announced in spring 2020, drew the attention of the competent authorities to the strict observance of the principles of respect for human rights, the Law of the Republic of Lithuania on the Rights of Patients and Compensation of the Damage to Their Health and other legal acts when providing information on potentially infected persons. The Seimas Ombudsman reminded that personal health information is confidential (disclosure of such information in the media is normally prohibited) and may be provided only with the written consent of the person, and urged to respect the patients' right to privacy by providing residents with only generalised information about persons who may have been infected with the COVID-19 disease (coronavirus infection), thus violating the person's rights and not disclosing the information about his personal life.

In performing the functions of the National Human Rights Institution, the Seimas Ombudsmen's Office together with the Head of Centre for Human Rights also discussed the demarcation line between freedom of expression and incitement of hatred in one of a radio broadcasts of the "News Radio" station.

References

- Letter No 1/3D-968 of the Seimas Ombudsman of the Republic of Lithuania of 14 April 2020 on the ensuring of human rights during the quarantine
- Letter No 1/3D-3220 of the Seimas Ombudsman of 3 December 2018 on freedom of expression, ensuring the independence of the public broadcaster

Corruption

The Seimas Ombudsman recently investigated a complaint (No. 4D-2020/1-595) regarding the activities of commissions formed by the Ministry of Health. In this context, the Seimas Ombudsman identified systemic problems: imperfection of legal acts prepared in the Ministry, incorrect application of legal acts, lack of information, incompetence of civil servants, unjustified transfer of functions (providing information, conclusions, control, decision-making, etc.) to the State Health Insurance Fund, although according to the legal acts, it only technically serves the commissions formed; lack of control function, lack of personal responsibility, potential non-transparency in decisions on reimbursement of drug purchase costs, Compulsory Health Insurance Fund's budget planning (for reimbursement of costs for treatment of rare diseases), distribution of expenditure by the Compulsory Health Insurance Fund, etc.

During the investigation, the Seimas Ombudsman referred the matter to the Special Investigation Service, which carried out an anti-corruption assessment of the legislation regulating the reimbursement of the costs of treatment of very rare diseases and submitted the conclusion of the anti-corruption assessment.

The Ministry informed that following the recommendations of the Special Investigation Service and the Seimas Ombudsmen, a working group had been formed to review and adjust the legal regulation.

The State Audit Office, which was also approached, said that the legislative process did not involve enough civil society groups that are subject to legal regulation and for this reason, their opinion on the planned legal regulation, problem solving methods and expectations is unknown; moreover, the legislative process lacks openness and transparency (Report No. VA-2018-P-40-6-2 of 16 March 2018). The Government prepared and published the Public Consultation Methodology and the Guidelines for the Application of the Public Consultation Methodology.

Amendments to other legal acts are currently being prepared; they have been submitted to the public (via Draft Legislation platform) for comments and approval.

Impact of measures taken in response to COVID-19 on the national rule of law environment

Most significant impacts of measures taken in response to the COVID-19 outbreak on the rule of law and human rights protection

It should be mentioned that due to COVID-19 outbreak, planned strategic objectives and tasks of the Seimas Ombudsmen's Office had to be substantially adjusted or changed. As a result of the changing situation, the Seimas Ombudsmen also had to address complaints reflecting the realities and topics arising from the situation due to certain restrictions of human rights. For example, in one of the letters in response to the received complaint the Seimas Ombudsman emphasized that during the COVID-19 pandemic it was particularly important to ensure that the convicted are provided with the opportunity to maintain contact with their family members. In other cases, when it was found that certain human rights were violated in the context of the pandemic, own-initiative investigations were launched, etc.

In this context, it also should be noted that the Seimas Ombudsmen's Office not only examined complaints and conducted investigations related to the declared pandemic, but also carried out extensive analytical work focused on preventing possible unjustified and disproportionate restrictions on human rights.

In particular, the Seimas Ombudsmen's Office carried out a comprehensive the investigation presented on 12 November 2020, which was carried out after the Government reinstated the quarantine regime and imposed more intense restrictions on human rights and freedoms on the territory of the Republic of Lithuania. This investigation report included an assessment of the compliance of emergency management measures in the field of human rights and freedoms introduced in March 2020. The report stressed, inter alia, that the main concerns were the forced isolation of persons returning from abroad in the premises provided by municipal administrations.

Aspects related to the declared pandemic are also reflected in the report "On the fundamental human rights issues arising in the field of ensuring assistance for victims of domestic violence" of 31 December 2020, which addressed, inter alia, the issue of the need for and availability of services for victims of domestic violence in the context of combating COVID-19 disease.

Another investigation to be mentioned concerned activities of the officials of Vilnius City Administration in performing the assigned functions related to the implementation of legal acts regulating the carriage of passengers on local routes in the territory of the municipality, supervision and control of activities of companies providing public passenger transport services. The investigation found that the banning of the sale of paper tickets as a result of the COVID-19 pandemic resulted in the infringement of passenger rights, because the Director of Vilnius City Administration, abusing his competence, acting ultra vires, instructed the Company in writing not to sell paper tickets in vehicles.

References

- <https://www.lrski.lt/naujienos/seimo-kontrolierius-per-koronaviruso-pandemija-ypac-svarbu-uztikrinti-alternatyvius-budus-nuteistiesiems-palaikyti-rysius-su-seimos-nariais/>
- <https://www.lrski.lt/naujienos/surengtas-virtualus-seminaras-socialines-globos-istaigu-darbuotojams-apie-zmogaus-teisiu-uztikrinima-covid-19-pandemijos-metu/>
- Report on human rights compliance of legal acts of the Republic of Lithuania regulating emergency management and certain emergency management measures: <https://www.lrski.lt/ataskaitos-del-esminiu-zmogaus-teisiu-problemu/>
- <https://www.lrski.lt/ataskaitos-del-esminiu-zmogaus-teisiu-problemu/>
- On the investigation into activities of the officials of Vilnius City Administration: <https://www.lrski.lt/naujienos/sprendimas-neprekiauti-viesojo-transporto-popieriniais-bilietais-vilniaus-mieste-priimtas-virsijant-igaliojimus-juo-pazeista-keleiviu-teise-laisvai-pasirinkti/>

Most important challenges due to COVID-19 for the NHRI's functioning

After the outbreak of coronavirus infection (COVID-19 disease) reached the level of the global pandemic, taking into account the unfavourable epidemic situation of the spread of coronavirus infection (COVID-19 disease) in Lithuania, the WHO call on states to take urgent, targeted and rigorous measures to stop the spread of this disease, the Government's decisions to introduce quarantine on the territory of the Republic of Lithuania and to avoid creating an additional risk of the spread of this disease in places of detention, visits by the Seimas Ombudsmen such places have reduced compared with previous years. Moreover, additional functions of prevention of

torture in places of imprisonment were carried out remotely: the information and consultation workshop was organised for employees of social care institutions, the employees of these institutions were additionally consulted in groups established on the Facebook for that purpose, and recommendations were made in writing on ensuring the human rights of persons in places of imprisonment during the quarantine period in Lithuania.

It should be stressed, however, that in spite of the faced challenges and increased workload, the Seimas Ombudsmen's Office has been able to carry out its mandate.

