



European Network Against Racism
Réseau européen contre le racisme

ENAR Shadow Report 2012-2013

ENAR SHADOW REPORT

**Racism and related discriminatory practices in
employment in Lithuania**

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Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism in the EU and its Member States. NGO reports are, by their nature, based on many sources of data - official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by racism. It is this that gives NGO reports their added value, complementing academic and official reporting.

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Executive summary

During the reporting period, the implementation of the newly adopted National Anti-discrimination action plan began. None of the measures introduced foresaw the specific combating of discrimination in the labour market. Roma integration in the Lithuanian Society Action Plan 2012-2014 was also adopted. Both plans were adopted without involvement of the civil society. Other governmental policies that tackled racism and discrimination were not fully implemented because of lack of funds and political will.

Nevertheless, governmental institutions are increasingly trying to involve civil society organisations in combating discrimination. Non-governmental organisations are cooperating among themselves and with governmental institutions by communicating with institutions and by organising public actions.

The Roma and NGOs working with Roma point out that the measures foreseen in the Action Plan for Roma integration in Lithuanian society for 2012-2014 to promote the inclusion of Roma in the job market are insufficient and do not take into account the complex Roma situation.

In 2013, important changes were made to the Law on Equal Opportunities. Article 5 of the Law was supplemented by the provision that State and municipality institutions, among other things, are obliged to ensure equal opportunities in their strategic planning documents. Municipal institutions must insure means for equal opportunities in municipal strategic development and/or municipal strategic action plans. The Law enters into force on 1 October 2014.

Amendments to the Law on Equal Opportunities of Women and Men were made in March 2012, ensuring that discrimination at all stages of employment could be tackled. In addition, it set a term of 10 days for different institutions, legal entities and persons to submit information to the Ombudsperson upon a request. The latter rule is important also for investigation of discrimination complaints, as it ensures that they may be handled in a timely manner.

The Minister of Social Affairs adopted the Decision regarding the employment of a foreign national for a job requiring high professional qualifications and its conformity with the needs of the labour market at the end of 2012. A new legal instrument on the "Conditions and description of the procedure of the issuance of work permits for foreigners" was introduced, which replaced the previous version of the same regulation. Institutions must facilitate work permit validation for highly qualified workers.

The infrastructure for handling complaints in cases of discrimination is not always efficient because people are sometimes neither able to recognise discrimination nor know what institution to approach at first instance". This indicates there is a lack of publically accessible information and assistance. Subsequently, this results in the situation where people do not complain due to the confusion that is caused by the governmental mechanism.

The number of discrimination cases on grounds of race, ethnicity, nationality, religion, beliefs or convictions brought to court is very low. This indicates that people either do not believe in the legal defence of their rights in cases of discrimination or lack information and legal assistance.

The number of complaints submitted to the Equal Opportunities Ombudsperson also remains low: it is possible people lack information, do not believe they could change their situation, or fear reprisals from their employers.

The area of anti-discrimination and anti-racism in employment has not been fully covered by legislation. Political instruments and mechanisms need to be developed and implemented. In the light of absent or outdated data, more research on discrimination and racism of migrant and ethnic minorities in employment, including the situation of women, need to be conducted. Discrimination of ethnic minorities has been determined by experts working in the field to be caused by, among others, the unnecessary requirement for certain proficiency of Lithuanian and negative stereotyping.

Recommendations:

- Fully transpose the provisions of the 2000/43/EC and 2000/78/EC Directives.
- Adopt a new Law on National Minorities, as the old one ceased to exist since 2010.
- Amend the Law on the Office of Equal Opportunities Ombudsperson in order to provide that the Office assists and legally represents victims of discrimination in court.
- Authorities should adopt the draft law, which extends access to social security to persons granted subsidiary protection as soon as possible.
- The State should ensure the right of migrant workers to receive a fair wage through monitoring the implementation of existing legal acts.
- Institutions representing national minorities should be established on a State level.
- Permanent monitoring system of introduced programmes and support mechanisms should be developed by the State (not project-based support) to ensure the assistance for the long-term unemployed persons, as almost a half of the unemployed minorities faced long-term unemployment¹.
- Continuous programmes for the integration of migrant workers should be actively implemented and accordingly updated. E.g. of programmes: National Demographic Policy Strategy (2004), the National Economic Migration Regulation Strategy (2007), Guidelines for Immigration Politics (2008), National Sustainable Development Strategy (2011), the State Long-term Development Strategy, Lithuanian Long-term Strategy for Economic Development up to 2015, etc.
- Sufficient funding must be allocated to the integration and anti-discrimination programmes in order to implement them effectively. E.g. of programmes: the Roma Integration to the Lithuanian Society Action Plan 2012-2014, Inter-institutional action plan for promoting non-discrimination for 2012-2014, etc.
- Law on Equal Treatment provides that State and municipality institutions must implement documents to guarantee equal opportunities. Policy measures should be created to ensure equal opportunities and prevention of discrimination in the labour market in all sectors.
- The Equal Opportunities Ombudsperson must take measures to protect victims of discrimination and assist them in filing complaints against their perpetrators.
- Research on migrant and ethnic minority women in the labour market should be carried out by the state funded research institutes, including discrimination, racism in access to employment and at the workplace.

¹ Blaziene I., Gruzevskis B, 'Lithuania: EWCO CAR on Working conditions of nationals with a foreign background', Institute of Labour and Social Research, 2011.

- Research on national minorities and migrant workers in employment and their situation in different economic sectors should be carried out.
- Requirements that are unnecessary for job position (e.g. citizenship, language proficiency, etc.) should be challenged and re-evaluated. High occupational levels should be accessible to non-EU nationals.
- To organise state funded awareness-raising campaigns, training courses for employers in order to reduce their negative approach and stereotypical views towards ethnic minority groups.
- To provide supported employment and individual support to increase the employability of ethnic minorities.
- An inter-institutional body on Roma issues should be set-up with a view to coordinate the action of the authorities responsible for the implementation of the Roma integration programmes. Authorities should guarantee adequate funds for the Roma Integration Programme.
- The State should broadly consult with civil society and non-governmental organisations when making decisions that affect socially vulnerable groups.
- Public policies on the integration of ethnic minorities and migrants (including their integration in the labour market) and combating of discrimination should be in line with the participation of ethnic minorities in the State's political, social, economic and cultural life.
- Strong institutional cooperation and sufficient funding for the systematic implementation of policies is recommended. Consider re-introducing the Department of National Minorities and Lithuanians Living Abroad.
- Ratify the Convention of Migrant Workers as recommended in the Human Rights NGOs' meeting with the Government² after Lithuania went through the Universal Periodic Review procedure at the UN Human Rights Council on 11 October 2011.
- Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) as recommended in CERD concluding remarks on Lithuania³.

² First meeting after Lithuania was reviewed in UN Human Rights Council was held on 16 April 2012, second meeting was held in the Ministry of Justice of the Republic of Lithuania on 19 April 2013. Both meetings were initiated by the Human Rights Coalition (Coalition of NGOs working in Human Rights field).

³ Committee on the Elimination of Racial Discrimination, Seventy-eighth session, CERD/C/LTU/CO/4-5, 14 February – 11 March 2011, p.5

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1. Introduction

Racism is a reality in the lives of some ethnic and religious minorities in Lithuania. The extent and manifestations of this fact are often unrecognised, unknown and undocumented, especially with regard to official data sources. Consequently, it can be difficult to analyse the situation and to establish solutions. Even when there is extensive official data, NGOs offer a vital alternative data source, which come directly from the experiences of individuals and communities experiencing racism on a daily basis. The ENAR Shadow Reports have become a major tool for monitoring the situation of racism and xenophobia in EU Member States. Both ENAR's national and European Shadow Reports have proved to be an invaluable documented starting point for strategic and coordinated action, particularly for anti-racist civil society advocacy towards national governments, the European institutions, bodies and the media.

The aim of this report, therefore, is to contribute to knowledge and to provide insight from activists and professionals on the ground working to combat racism and discrimination in Lithuania as an advocacy tool by which to influence policy. The report is based on the analysis of the national legislation and its harmonisation with the international and EU legal standards, analysis of different policy documents, reports, and most importantly – interviews with different scientists, NGO, trade union representatives and representatives of employers. This report takes on a more narrow focus than previous reports, by exploring the situation of racism and discrimination in the field of employment in Lithuania for the period of March 2012 to March 2013. The results will be used at national level to influence policy developments and will be further compiled into a European comparative report to influence European policies. Hopefully, with improved statistical and comparative data, the Shadow Reports will have a demonstrable impact for changing policy and bringing about necessary policy reforms in Lithuania and the EU.

1.1 Definitions

Lithuanian legal acts do not define the terms “**ethnic minority**”, “**national minority**”, “**ethnic origin**” or “**nationality**”. Article 29 of the Constitution of the Republic of Lithuania establishes a term “nationality”, but does not define it: “The rights of the human being may not be restricted, nor may he be granted any privileges on the ground of gender, race, **nationality, language, origin**, social status, belief, convictions, or views.”

The Framework Convention for the Protection of National Minorities that has been ratified and is valid in Lithuania, therefore becomes an integral part of the legal system, setting an important principle of self-identification: “every person belonging to a **national minority** shall have a right to choose to be treated or not to be treated as such”⁴.

The Law on Citizenship defines who a person of Lithuanian descent is: “**Person of Lithuanian descent** means a person whose parents or grandparents or one of the parents or grandparents are or were Lithuanians and who considers himself Lithuanian and declares it by written statement”⁵.

⁴ Framework Convention for the Protection of National Minorities, Council of Europe, Strasbourg, 1995.

⁵ Article 2, Lietuvos Respublikos pilietybės įstatymas, Nr. IX-1078, 2010.

“In Lithuania, there are no legal documents containing the definition of ethnic minorities.⁶” The Law on Ethnic Minorities, that has been invalid since 1 January 2010, did not define “ethnic minorities”.⁷ The new Draft legislation on ethnic minorities considered by the Council of Ethnic Minorities attempts to define **ethnic minority** as “a group of citizens of the Republic of Lithuania, that have a different culture, religion or language, or one of the characteristics from the majority, and that are united by the aim to preserve their ethnic identity”.⁸

There is no common definition of the term “**migrant**”. The legal acts and different programmes use the terms alien, a citizen of an EU Member State, citizen of another state, immigrant, economic migrant, illegal migration, a third country national. All terms are described below:

Alien means any person other than a citizen of the Republic of Lithuania, irrespective of whether he is a foreign citizen or a stateless person.⁹

Citizen of EU Member State means an alien holding citizenship of an EU Member State.¹⁰

Citizen of another state means a person holding citizenship of a state other than the Republic of Lithuania.¹¹

The Law on the Status of aliens does not define the term “third country national” or “third country citizen”, except when setting the regulation of the visa-free travel regime and the requirement to be in possession of a visa,¹² which is related to the term being used in the EU directives. Besides, it establishes the term “safe third country”, whereas the term “third country national” is being used in different policy documents.

An immigrant is a person who has arrived to Lithuania for a period that is or is likely to be not shorter than 12 months.¹³ **Immigration** is understood as the arrival of persons (except those who are exercising their right to freedom of movement) to a foreign country, for various reasons (e.g. work, establishment of a business, family reunion, asylum, etc.), affecting the lives of people in the territory of a foreign country.¹⁴

⁶ Blaziene I., Gruzevskis B. “Lithuania: EWCO CAR on Working conditions of nationals with a foreign background”, Institute of Labour and Social Research, Vilnius, 2011.

⁷ Lietuvos Respublikos tautinių mažumų įstatymas, Nr.4-117, 1991.

⁸ Lietuvos Respublikos tautinių mažumų įstatymo projektas, 2013.

⁹ Article 2, Lietuvos Respublikos įstatymas dėl užsieniečių teisinės padėties, Nr. IX-2206, 2004.

¹⁰ Ibid.

¹¹ Article 2, Lietuvos Respublikos pilietybės įstatymas, Nr. IX-1078, 2010.

¹² Article 11, Lietuvos Respublikos įstatymas dėl užsieniečių teisinės padėties, Nr. IX-2206, 2004: “The entry into and stay in the Republic of Lithuania of an alien who is not a citizen of EU Member State shall be subject to the provisions of Council Regulation (EC) No 539/2001 of 15 March 2001 with all the subsequent amendments, listing the third countries whose nationals must be in possession of visas when crossing the external borders and those third countries whose nationals are exempt from that requirement”.

¹³ Lietuvos Respublikos Vyriausybės nutarimas dėl ekonominės migracijos procesų ir užsienio lietuvių būklės stebėsenos, analizės ir prognozavimo tvarkos aprašo patvirtinimo, Nr. 957, 2008.

¹⁴ Lietuvos Respublikos Vyriausybės Lietuvos imigracijos politikos gairės, Nr. 1317, 2008.

Economic migrant is a person who left Lithuania and moved to a foreign country (economic emigrant) or who arrived to Lithuania from a foreign country (economic immigrant) due to economic reasons.¹⁵ The Economic Migration Regulation strategy also uses the term “workers from third countries” but does not describe it.

Illegal migrant and/or illegal migration – terms, which are used in the national legislation, i.e. Law on Legal Status of Aliens and different policy documents, are not defined. The Law on Legal Status of Aliens only defines “**unlawful entry to the Republic of Lithuania**” – arrival of an alien to the Republic of Lithuania is considered to be unlawful, if the person arrives violating the regulations of Schengen Borders Code.¹⁶

The terms “**2nd and 3rd generation migrants**” are not in use in neither legal acts, nor policy documents. Researchers use it in some situations, mostly when analysing EU integration policies. It also is used to describe people who moved to the Nuclear Power Station town Visaginas from Soviet Russia. Nevertheless, it has been explained that these people are considered a national minority.¹⁷

The term “religious minority” is not used in Lithuanian legislation. The following terms are used in the Law on Religious Communities and Associations¹⁸: religious communities, religious associations, traditional religions, non-traditional religions.

A **religious community** are a group of individuals seeking to implement the objectives of the same religion. It may be a local subdivision of a respective religious association.¹⁹

The Law on Religious Communities and Associations sets the list of nine traditional religious communities and associations existing in Lithuania, which comprise a part of Lithuania’s historical, spiritual and social heritage: Roman Catholic, Greek Catholic, Evangelical Lutheran, Evangelical Reformed, Russian Orthodox, Old Believer, Judaist, Sunni Muslim and Karaite.²⁰

All other (non-traditional) religious associations can be registered according to the law and have a possibility of receiving state recognition after 25 years from the date of their initial registration in Lithuania.²¹

1.2 Statistical overview

The most recent Census took place in 2011 and the final data have been published in June 2013. According to it, Lithuania is rather homogenous country where 84.1% of the population is Lithuanian.²² The biggest minority groups are Poles and Russians, comprising 6.6% and 5.8% respectively. The other minorities such as Jews, Latvians, Tatars, Germans

¹⁵ Lietuvos Respublikos Vyriausybės Ekonominės migracijos reguliavimo strategija, Nr. 416 2007.

¹⁶ Article 10, Lietuvos Respublikos įstatymas dėl užsieniečių teisinės padėties, Nr. IX-2206, 2004.

¹⁷ Šliavaitė K., “Etninės mažumos darbo rinkoje: kalbos, pilietybės ir socialinių tinklų reikšmė (Visagino atvejis)”, *Ethnicity Studies*, 2012/1-2 (2012), p. 105.

¹⁸ Lietuvos Respublikos religinių bendruomenių ir bendrijų įstatymas, Nr. I-1057, 1995.

¹⁹ Article 4, Lietuvos Respublikos religinių bendruomenių ir bendrijų įstatymas, Nr. I-1057, 1995.

²⁰ Ibid.

²¹ Ibid. Article 6.

²² Statistikos departamentas prie Lietuvos Respublikos Vyriausybės, 2011 gyventojų surašymo duomenys, <http://osp.stat.gov.lt/statistiniu-rodikliu-analize?id=1348&status=A>, accessed 4 July 2013.

and Roma constitute just a mere 0.1% each, whereas 1.2% is Belarusians and 0.5% is Ukrainians. 0.2% defined themselves as falling under the 'other ethnic minorities' category, while a remaining 1.1% did not indicate any affiliation.²³

Despite the homogenous tendency, there are 154 foreign nationalities and a 1000 or more individuals in the country represent 11 of them.²⁴

Considering ethnic minorities breakdown by age, 23% of Lithuanian individuals are in the age group of 0-19. Poles in the same age group constitute 18% of their total population, whilst Russians 11.8%.²⁵ The smallest number of Lithuanians is in the age group of sixty and over, they make up only 22.7%, whilst Ukrainians and Belarusians amount to 37.5% and 36.9% respectively in their populations.²⁶

Due to intensive emigration, the number and structure of the inhabitants of Lithuania has changed. Until 1994, natural society growth fully or partially compensated for the migration loss; from 1995 onwards, the population decreased due to the repercussions of both migration and growth. Emigration affects the ethnic composition of the population: the number of Lithuanians increased and ethnic minorities are affected unevenly (e.g. as a probable result of emigration from Visaginas).²⁷

Compared to the National Census 2001, the ethnic composition has slightly changed from 2001 to 2011. Even though the number of people belonging to different ethnicities has decreased, it has to be noted that the number of people belonging to ethnic minorities has decreased more than the number of Lithuanians: Ukrainians – by 27%, Russians – by 19.5%, Belarusians – 15.5%, Polish – 14.8%, Lithuanians – 11.8%.²⁸

Ethnic minorities' breakdown by gender is not indicated.

Considering the 2013 immigration statistics, at the beginning of the year there were 33 267 individuals of foreign nationality in the country, whereas in 2012 there were 32 469. Though the general population has decreased by 0.5% according to the data of January 2013, an increase in the number of foreigners has been recorded by 6% comparing to July 2012. The total number of foreigners is 34 462, nevertheless they comprise only 1.2% of the total population.²⁹ It is noted that the majority of immigrants come from Russia, Belarus and Ukraine.³⁰

A decrease in the number of asylum applications has been noticed at the beginning of 2013 – 175 (three persons were granted refugee status, 42 – subsidiary protection) and in 2012,

²³ Ibid.

²⁴ Lietuvos Statistikos Departamentas, Gyventojai pagal tautybę, gimtąją kalbą ir tikybą, Lietuvos Respublikos 2011 metų visuotinio gyventojų ir būstų surašymo rezultatai, 2013m. kovo 15d., p1.

²⁵ Ibid, p. 3.

²⁶ Ibid, p. 3.

²⁷ Lietuvos Respublikos Vyriausybės Nacionalinė demografinė (gyventojų) politikos strategija, Nr. 1350, 2004.

²⁸ Lietuvos Statistikos Departamentas, Gyventojai pagal tautybę, gimtąją kalbą ir tikybą, Lietuvos Respublikos 2011 metų visuotinio gyventojų ir būstų surašymo rezultatai, 2013m. kovo 15d., p1.

²⁹ Migracijos departamentas prie VRM, 2013 m. I pusmečio pagrindiniai migracijos rodikliai Lietuvos Respublikoje, <http://www.migracija.lt/index.php?-891450424>, accessed 8 August 2013.

³⁰ Migracijos Departamentas prie VRM, Pagrindiniai Migracijos Rodikliai Lietuvos Respublikoje, 2013.

623 asylum applications in total were received, refugee status granted – 13, subsidiary protection – 100.³¹

In terms of religion and belief, the same principle of uniformity applies. Even though there are 59 religious communities within the country, only 11 of them exceed one thousand followers.³² 77.2% of the total population regard themselves as Roman Catholics, 4.1% are Orthodox, 0.8% are Old Believers, 0.6% are Evangelical Lutherans, 0.2 are Evangelical Reformed and the remaining 0.9% belong to other religious communities. 6.1% of total population did not accredit themselves to any religion, whereas 10.1% did not indicate any affiliation.³³ This general structure remained stable since 2001 without any significant increase or decrease in the popularity of the particular religion.³⁴

Religious breakdown by ethnicity: 88.6% of Polish, 82.9% of Lithuanians, 49.6% of Belarusians, 13.7% of Ukrainians regard themselves as Roman Catholics; 59.1% of Ukrainians, 51.5% of Russians, 32.3% of Belarusians – as Orthodox; 11.8% of Russians – as Old Believers.

The number of people of different ethnicities who belong to other religious communities or organisations is small, except 51.6% of Tatars who regard themselves as Sunni Muslims, and 34% of Jews – as Judaists.

2. The context: labour market and legal framework

2.1 Outlook of the labour market

National minorities comprise approximately 14.8% of the entire population living in Lithuania, whereas immigrants comprise less than 1.2% of the population.³⁵ The vast majority of foreigners (61.3%) have permanent residence permits – 19 903 (978 – EU Member States citizens), and 13 350 – temporary residence permits (2 499 – EU Member States citizens).³⁶

The Lithuanian Labour Exchange under the Ministry of Social Security and Labour is responsible for granting temporary work permits to foreigners who live in Lithuania (people who live in the country with permanent residence permit do not require a work permit). According to Labour Exchange data, 4 627 work permits were issued to foreigners in 2012, and 2 229 work permits – in the first half of 2013.³⁷ In total, there are 4 192 valid work

³¹ Ibid., p. 2.

³² Lietuvos Statistikos Departamentas, Gyventojai pagal tautybę, gimtąją kalbą ir tikybą, Lietuvos Respublikos 2011 metų visuotinio gyventojų ir būstų surašymo rezultatai, 2013m. Kovo 15d, p. 4.

³³ Ibid., p. 5.

³⁴ According 2001 census, 79% were Roman Catholics, 9.5% were non-believers, 4 % were Orthodox and 7.5% belonged to other religions.

³⁵ Migracijos departamentas prie VRM, 2013 m. I pusmečio pagrindiniai migracijos rodikliai Lietuvos Respublikoje, <http://www.migracija.lt/index.php?-891450424>, accessed 8 August 2013.

³⁶ Migration yearbook 2012, Migration Department under the Ministry of Interior of the Republic of Lithuania, Vilnius, 2013 <http://www.migracija.lt/index.php?1995918238>, accessed 14 August 2013, p.13.

³⁷ The Lithuanian Labour Exchange under the Ministry of Social Security and Labour, Answer to the inquiry No. Sd-2221, 13 August 2013.

permits in 2013.³⁸ The Lithuanian Labour Exchange does not collect the data how many foreigners are working when they have a temporary residence permit, but are not obliged to apply for a working permit³⁹.

Since 2003, the Department of Statistics does not collect data of the activity rate disaggregated by ethnicity. Therefore, there are no possibilities of extracting official data about the situation of ethnic minorities in the labour market.⁴⁰ “Main statistical sources provide information on citizenship, nationality, ethnic or national minorities, migrants, etc. without singling out the category of ‘nationals with a foreign background/specific ethnic affiliation’.⁴¹”

The last survey assessing the situation of ethnic minorities in the labour market was conducted in 2008-2009⁴². Results were presented in 2010⁴³. Therefore, the situation of ethnic minorities in the labour market presented is according to the last survey conducted.

Labour market participation: According to the last survey evaluating the situation of ethnic minorities in the labour market which was conducted by the Institute of Labour and Social Research, 92.8% of respondents considered themselves economically active. 79.3% – were working or in some form of occupation, which included hired workers, women on maternity leave and persons on parental leave, and 13.5% considered themselves unemployed, but looking for a job.⁴⁴

The Unemployment rate fell in 2012. The Lithuanian Labour Exchange reports that there were 210.2 thousand registered unemployed, which is 11.4% of the total potential labour force.⁴⁵ The unemployment rate among men continued to be higher. The unemployment rate of women – 10.7% (99.8 thousand), among men – 12% (110.3 thousand). According to the Labour Exchange, 1 208 foreigners were unemployed in 2012. This amounts to 3.7% of the total population of foreigners in Lithuania, not counting the potential labour force.⁴⁶ Most of the registered foreigners came from the Russian Federation – 613, Belarus – 186,

³⁸ Ibid.

³⁹ The Law on the Status of Aliens foresees that a foreign national does not require a working permit even if they have a temporary residence permit in situations such as (Art. 58, Art. 40): when they have a right to restoration of citizenship according to the Law on Citizenship, person of Lithuanian descent, the person was assigned a legal guardian, or was assigned to be a legal guardian for someone else, a person cannot be sent away according to the law, a person has received temporary or subsidiary protection, a person is planning to carry out scientific research based on a signed contract with a scientific entity registered in the Republic of Lithuania.

⁴⁰ Okunevičiūtė Neverauskienė L. ‘Tautinių mažumų integracijos į darbo rinką aspektai’, Filosofija. Sociologija, 2010. T.21. Nr.4. Vilnius: Lietuvos mokslų akademijos leidykla, p.246.

⁴¹ Blaziene I., Gruzevskis B, ‘Lithuania: EWCO CAR on Working conditions of nationals with a foreign background’, Institute of Labour and Social Research, 2011.

⁴² Okunevičiūtė Neverauskienė L. ‘Tautinių mažumų integracijos į darbo rinką aspektai’, Filosofija. Sociologija, 2010. T.21. Nr.4. Vilnius: Lietuvos mokslų akademijos leidykla.

⁴³ Okunevičiūtė Neverauskienė L. ‘Tautinių mažumų integracijos į darbo rinką aspektai’, Filosofija. Sociologija, 2010. T.21. Nr.4. Vilnius: Lietuvos mokslų akademijos leidykla

⁴⁴ Ibid. p.249

⁴⁵ Lithuanian Labour Exchange, 2012 m. darbo rinkos tendencijų apžvalga, <http://www.ldb.lt/informacija/darborinka/Puslapiai/Tendencija.aspx?AspXPage=g%5F7BA1CA54AA024430A86D581D71C8B9A9:%2540ID%3D29>, accessed 14 August 2013.

⁴⁶ Ibid. 1 156 foreigners were unemployed in the first half of 2013.

Ukraine – 116. There is no official statistical data collected nationwide on employment rates of foreigners, disaggregated by ethnicity, gender and age.

According to the results of the survey conducted in 2008, 69.8 % of respondents belonging to ethnic minorities had a paid job, 9.5% were working and studying. 13.5% of those who did not work but were looking for a job were also considered active in the labour market.⁴⁷

On the 1 July 2012, there were 158 unemployed Roma registered at the Vilnius local labour exchange office (0.3 per cent of all registered unemployed persons in Vilnius city). No statistical data is available on unemployment of Roma in other areas of Lithuania.⁴⁸

“Another survey carried out by the DSTI in 2007 on labour market integration opportunities for the national minorities explored integration opportunities for unemployed national minorities in the most problematic regions with the biggest concentration of main ethnic minorities (as revealed by the census data). Interviews with the unemployed minorities suggested that a significant percentage of unemployed minorities suffered from long-term unemployment (47% of the unemployed indicated being unemployed for more than 25 months)”.⁴⁹

Occupational level: According to the data of the Migration department, 71% of foreign workers in Lithuania are long-distance drivers, 9% – ship hull constructors, 7% - welders, 3% – kitchen chefs, 1% – consultants, 10% – other professions. According to the Director of the International Organisation for Migration, Vilnius Office, Ms. A. Sipavičienė, the number of foreign drivers is great because it is more convenient for employers to employ e.g. Belarusians, who do not need visas to drive goods to Russia.⁵⁰

In 2010, 20% of ethnic minorities who participated in the survey were working in sales, 15.5% – in the manufacturing industry. Less than 10% worked in education, healthcare, social work, transport and storage. The respondents belonging to ethnic minorities indicated different professions, therefore it was not possible to indicate the prevailing professions or describe the particular characteristics of their positions. It can only be noted that ethnic minorities were working at the positions that require either higher education or lower education.⁵¹

36.6% of the ethnic minorities interviewed in 2008 had a higher university or higher non-university education, 21.7% had advanced vocational education and training or special secondary education, 40.2% had a secondary, basic or primary education, among them those who had vocational training or did not have any.⁵²

⁴⁷ Okunevičiūtė Neverauskienė L. ‘Tautinių mažumų integracijos į darbo rinką aspektai’, Filosofija. Sociologija, 2010. T.21. Nr.4. Vilnius: Lietuvos mokslų akademijos leidykla. P.249

⁴⁸ FRANET National Focal Point Social Thematic Study, The situation of Roma, Lithuanian Social Research Centre, Institute for Ethnic Studies, 2012, p.17.

⁴⁹ Blaziene I., Gruzevskis B, ‘Lithuania: EWCO CAR on Working conditions of nationals with a foreign background’, Institute of Labour and Social Research, 2011.

⁵⁰ Krasauskas Ignas, *Ekspertė: Lietuvoje trokštami imigrantai gali nusispjauti ir išvažiuoti*, Delfi.lt, 29 July 2013, <http://www.delfi.lt/verslas/verslas/eksperte-lietuvoje-trokstami-imigrantai-gali-nusispjauti-ir-ivaziuoti.d?id=61962153>, accessed 29 July, 2013.

⁵¹ Okunevičiūtė Neverauskienė L. ‘Tautinių mažumų integracijos į darbo rinką aspektai’, Filosofija. Sociologija, 2010. T.21. Nr.4. Vilnius: Lietuvos mokslų akademijos leidykla. P.251.

⁵² Ibid, p.249.

Quality of work: According to the data of 2008, 84.5% of the respondents of ethnic minorities were employed and had work contracts, 7.7% had a small business license (equivalent of freelance job) and 7.1% were the owners of an individual enterprise or a limited liability company. Most of the respondents were the owners of small individual enterprises or Ltd.'s, which did not have more than 50 employees.

There is no new data available indicating ethnic labour market segmentation. Scientists have debated whether the participation of ethnic minorities in some niches of the labour market ensure the effective integration or could be evaluated as preventing successful social integration. It has to be noted that some ethnic minorities mostly inhabit specific regions in Lithuania E.g. the establishment of Visaginas city and the Nuclear Power Station in it greatly affected its ethnic composition. People of Russian origin mostly inhabit this region.⁵³ Nevertheless, the level of emigration is high in the region and the population decreased by 25% from 2001 to 2011.⁵⁴

The Roma Community Centre representative notes some companies tend to employ people of the same ethnic origin in different service sectors⁵⁵. However, there is no hard data to prove this statement. Research would have to be carried out in order to accurately evaluate the situation.

It is difficult to assess the situation of ethnic minorities or migrants in the labour market as there is no new research available. The Labour Exchange, Department of Statistics do not disaggregate data according to ethnicity. The Institute for Ethnic Studies in their annual magazine "Ethnic Studies" have drawn similar conclusions: "new data evaluating the participation of ethnic minorities in labour market or unemployment indicators is not available, therefore it is impossible to assess how the economic growth period or the financial crisis that began in 2008 affected the situation of ethnic minorities in labour market".⁵⁶

2.2 Legal framework

The Constitution of the Republic of Lithuania establishes the principle of non-discrimination in Article 29, "All persons shall be equal before the law, the court, and other State institutions and officials. The rights of the human being may not be restricted, nor may he be granted any privileges on the ground of gender, race, nationality, language, origin, social status, belief, convictions, or views."

The Republic of Lithuania has signed and ratified a number of international treaties including the International Bill of Human Rights, the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, the International Convention on the Elimination of All Forms of Racial Discrimination, and the Council of Europe Framework

⁵³ Šliavaitė K., 'Etninės mažumos darbo rinkoje: kalbos, pilietybės ir socialinių tinklų reikšmė (Visagino atvejis)', *Ethnicity Studies*, 2012/1-2 (2012), p.107.

⁵⁴ Ibid., p.110.

⁵⁵ Novopolskaja Svetlana, Roma Community Centre, Vilnius, interview 9 July 2013.

⁵⁶ Petrušauskaitė Vita, Pilinkaitė Sotirovič Vilana, "Rusai Lietuvoje: etninės grupės raida ir socialinės integracijos iššūkiai 2001-2011 m.", *Ethnicity Studies*, 2012/1-2 (2012), p.26.

Convention for the Protection of National Minorities⁵⁷. Lithuania is also a party to the European Social Charter. It has to be noted that the Lithuanian Parliament ratified it with some reservations, most of which include reservations in relation to foreign, migrant workers and their rights;⁵⁸ the right of elderly people to social protection (Art. 30); the right to protection against poverty and social exclusion (Art. 30); regarding the house price accessibility (Art. 31 Part 3), the price of housing accessible to those without adequate resources.⁵⁹

The main legal documents addressing discrimination in employment are:

Law on Equal Opportunities of Women and Men – adopted 1 December 1998, came into force 1 March 1999 – prohibition of discrimination on the ground of gender, regulations considering the establishment of the Equal Opportunities Ombudsperson, its competence, procedural rules of complaint handling, functions.

Law on Equal Treatment – adopted 18 November 2003, came into force 1 January 2005.⁶⁰ The main aim was to transpose the EU Anti-discrimination Directives 2000/43/EC and 2000/78/EC. Lithuanian law has not only been harmonised with the EU acquis, but has also included additional equality grounds: age, sexual orientation, disability, racial or ethnic origin, religion or belief.

The principle of equal opportunities is also mentioned in several different laws, regulating specific legal relations. The Labour Code⁶¹ is the main legal act regulating employment relations.

The Labour Code sets out that the equal opportunities principle is one of the main principles applied to employment relations: “equality of subjects of labour law irrespective of their gender, sexual orientation, race, nationality, language, origin, citizenship and social status, religion, marital and family status, age, beliefs or views, membership in political parties and public organisations, factors that are not related to the employee's professional qualities” (Art. 2). The Labour Code states that “a person’s gender, sexual orientation, race, nationality, language, origin, citizenship and social status, belief, marital and family status, convictions or views, membership in political parties and public organisations, age” shall not be a legitimate reason to terminate employment relationships (Art. 129).

The Law on Equal Treatment was amended in 2008 with additional grounds: nationality, origin, language, social status, convictions or views.⁶² It also broadened the competence of the Equal Opportunities Ombudsperson, as well as shifting the burden of proof in discrimination cases.

⁵⁷ The Lithuanian Parliament ratified the Framework Convention for the Protection of National Minorities in 2000.

⁵⁸ Art. 18, parts 2 and 3, Art. 19 parts 2, 8, 12, Art. 13 part 4.

⁵⁹ Lietuvos Respublikos įstatymas dėl 1996 metų Europos socialinės chartijos (pataisytos) ratifikavimo, 2001.

⁶⁰ Lietuvos Respublikos Lygių galimybių įstatymas, 2003.

⁶¹ Darbo kodekso patvirtinimo, įsigaliojimo ir įgyvendinimo įstatymas. Darbo KODEKSAS, 2002.

⁶² Lietuvos Respublikos Lygių galimybių įstatymas, 2008.

Altogether, the two major pieces of legislation prohibit discrimination on the grounds of race, ethnicity, origin, religion, beliefs or convictions and language in the fields of employment.

According to the Migrant Integration Policy Index presented in 2011, “Victims enjoy such wide protection in fewer areas of life than 24 of the 30 other MIPEX countries. They are explicitly protected in education and employment, but not social protection, social advantages and access to goods and services (including health, housing). There is no case law available to prove otherwise”.⁶³ The European network of legal experts in the non-discrimination field noted that the law protects persons from discrimination on different grounds in the fields of employment, access to goods and services, and education. “Although the law does not explicitly mention housing, social advantages and social protection, it does not exclude these fields either”.⁶⁴

The evaluation of the Migrant Integration Policy index shows that:

*“all residents in Lithuania enjoy less discrimination protection than citizens in most European countries. The legal definitions of anti-discrimination in the Law of Equal Treatment are far broader than in other Baltic and Central European countries. The law protects against all grounds of discrimination (including nationality, as in 14 other MIPEX countries) and covers discrimination by association and on the basis of assumed characteristics. All actors in the private and public sector, including the police force, must respect the law. The mechanisms to enforce the law are better, but still below the European average”.*⁶⁵

Most of the provisions of the Directives 2000/78/EC and 2000/43/EC have been transposed into national law. After its adoption, some non-governmental organisations criticised the fact that not all provisions had been fully transposed.

1. The right for associations, organisations or other legal entities to engage in any judicial or administrative procedures.⁶⁶ This right has been included in the Law on Equal Treatment⁶⁷ in 2008. However, “it cannot be considered effective in practice due to gaps in other procedural legislation”.⁶⁸ According to the Code of Civil Procedure and the interpretation of its provisions by the Supreme Court of Lithuania, victims of discrimination must have legal representation in court either through an advocate or

⁶³ Migrant Integration Policy Index, Lithuania, <http://www.mipex.eu/lithuania>, accessed 11 July 2013.

⁶⁴ Andriukaitis G., European network of legal experts in non-discrimination field, Country Report, 2011, Lithuania, “Report on Measures to Combat Discrimination, Directives 2000/43/EC and 2000/78/EC”, <http://www.non-discrimination.net/countries/lithuania>, accessed 8 August 2013.

⁶⁵ Migrant Integration Policy Index, Lithuania, <http://www.mipex.eu/lithuania>, accessed 11 July 2013.

⁶⁶ Article 7 of the Council Directive No. 2000/43/EC and Article 9 of the Council Directive No. 2000/78/EC.

⁶⁷ “Associations or other legal persons which have, in accordance with the legal act regulating their activities, the defence and representation in court of persons discriminated against on a particular ground as one of their activities may, on behalf of the person discriminated against, represent him in judicial or administrative procedures in the manner prescribed by laws.”, Art. 12, part 2, Law on Equal Treatment.

⁶⁸ Andriukaitis G., European network of legal experts in non-discrimination field, Country Report, 2011, Lithuania, “Report on Measures to Combat Discrimination, Directives 2000/43/EC and 2000/78/EC”, <http://www.non-discrimination.net/countries/lithuania>, accessed 8 August, 2013.

advocate's assistant, or persons who have a university degree in law.⁶⁹ Even though the Code of Civil Procedure foresees the right for associations or other public legal entities to represent their members in legal proceedings, it means they can neither represent individuals who turn to them for assistance in their field of work, nor can they raise the issue of discrimination themselves.

2. The Law on Administrative Procedure only states that in most cases, an authorised representative⁷⁰ can either be an advocate or an advocate's assistant, and the requirements set by the Civil Code and the Code of Civil Procedure apply.⁷¹
3. According to the Code of Criminal Procedure, similarly the representatives by the warrant can be either advocates or their assistants, other persons that have a degree in law – with the permission of the pre-trial investigator, prosecutor or judge, their leaders, employees or advocates (Art. 55) can represent legal entities.⁷²

So far, existing trials have interpreted the participation of associations in the court proceedings in a very restrictive manner. In 2010, the Supreme Administrative Court issued its decision in the administrative case of *Lithuanian Gay League v. Equal Opportunities Ombudsperson* – that only persons, whose rights were directly affected by particular actions or inactions of the state or municipal institutions or agencies, have a right to complain to the Equal Opportunities Ombudsperson's Office".⁷³ It has to be noted that the decisions of the Supreme Administrative Court are final and not subject to appeal. The Supreme Administrative Court is responsible for developing a uniform practice when administrative courts interpret and apply statutes and other legal acts.

4. "A person who thinks that discriminatory actions ... have been directed against him or that he has become the subject of sexual or any other harassment shall have the right to appeal to the Equal Opportunities Ombudsperson for an objective and unbiased help". During the interviews conducted, some of the respondents indicated there was a lack of

⁶⁹ Lietuvos Respublikos civilinio proceso kodekso patvirtinimo, įsigaliojimo ir įgyvendinimo įstatymas, 2002, Art. 56, part 6: "Asociacijos arba kiti viešieji juridiniai asmenys, kurių steigimo dokumentuose kaip vienas iš veiklos tikslų yra nurodytas tam tikros grupės asmenų gynimas ir jų atstovavimas teisme, jeigu jie atstovauja asociacijos arba kito viešojo juridinio asmens dalyviams bylose pagal šių juridinių asmenų steigimo dokumentuose numatytus veiklos tikslus. Šiuo atveju bylą teisme veda atitinkamo juridinio asmens vienasmenis valdymo organas, įstatymų ar steigimo dokumentų nustatyta tvarka įgalioti kolegialių valdymo organų nariai arba atstovai pagal pavedimą – darbuotojai, turintys aukštąjį universitetinį teisinį išsilavinimą, ir (ar) advokatai (advokatų padėjėjai) ".

⁷⁰ The Law specifies who are the legal representatives, e.g. parents, adoptive parents, foster parents, guardians, and authorised representatives who are indicated as legal counsels in the law or advocates, their assistants (Art. 49).

⁷¹ Lietuvos Respublikos administracinių bylų teisenos įstatymas, 1999, Art.49, part 3: "Įgaliotais atstovais (pagal pavedimą) teisme paprastai būna advokatai. Advokato arba advokato padėjėjo įgaliojimai patvirtinami advokato arba advokato padėjėjo orderiu arba su klientu pasirašyta sutartimi. Kitų atstovų įgaliojimai turi būti nurodyti įgaliojime, išduotame ir įformintame Civilinio kodekso ir Civilinio proceso kodekso nustatyta tvarka".

⁷² Lietuvos Respublikos baudžiamojo proceso patvirtinimo, įsigaliojimo ir įgyvendinimo įstatymas, 2002.

⁷³ Lietuvos vyriausiasis administracinis teismas, *Lietuvos gėjų lyga v. Lygių galimybių kontrolieriaus tarnyba*, Application No. A⁶⁶²-665/2010, Judgment of 19 April 2010.

help provided by the Equal Opportunities Ombudsperson.⁷⁴ Nevertheless, some indicate that the resources of the Ombudsperson are limited⁷⁵ and the Ombudsperson does not have a legal possibility to represent victims of discrimination in court.⁷⁶

5. The system of sanctions. Both above-mentioned Directives state that:
*“Member States shall lay down the rules on sanctions applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are applied. The sanctions, which may comprise the payment of compensation to the victim, must be effective, proportionate and dissuasive”*⁷⁷.
- The system of sanctions and their implementation should be reviewed in order to ensure their effective, proportionate and dissuasive character.

As the Directive provides, sanctions “may comprise the payment of compensation to the victim”. Victims of discrimination do not benefit from it according to the Law on Equal Treatment due to the quasi-judicial function of the Ombudsperson. The Law only states that the persons who have suffered discrimination on grounds of gender, race, nationality, language, origin, social status, religion, beliefs or convictions, age, sexual orientation, disability, ethnicity have a right to claim for compensation of pecuniary and non-pecuniary damage from the guilty persons in accordance with the procedure established by the laws.

According to the Law on Equal Treatment, administrative sanctions can be applied to a limited circle of persons, i.e. the employer, legal representative of the legal entity (private or public), educational institutions, salesperson, and manufacturer of goods or service provider. The Ombudsperson cannot apply sanctions to employees, if they were responsible for discriminatory acts or in the service sector if the victim was discriminated by customers. Neither customers nor employees can be held liable according to the Law on Equal Treatment.

6. Council Directive 2000/43/EC states that:
*“To ensure the development of democratic and tolerant societies which allow the participation of all persons irrespective of racial or ethnic origin, specific action in the field of discrimination based on racial or ethnic origin should go beyond access to employed and self-employed activities and cover areas such as education, social protection including social security and healthcare, social advantages and access to and supply of goods and services.”*⁷⁸.

⁷⁴ Baliko Ewelina, European Foundation for Human Rights, Vilnius, interview 20 August 2013.
Gruzdienė Gražina, Lithuanian Trade Union of Food Producers, Vilnius, interview 27 August 2013.
Novopolskaja Svetlana, Roma Community Centre, Vilnius, interview 9 July 2013.

⁷⁵ Grigolovičienė Danguolė, Equal Opportunities Ombudsperson’s Office, Vilnius, interview 12 July 2013.

⁷⁶ Samuolytė Jolanta, Mykolas Romeris University, Institute of International and European Union Law, Vilnius, interview 22 August 2013.

⁷⁷ Article 15, Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Official Journal L 180, 19/07/2000 P. 0022 – 0026.

Art. 17, Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, Official Journal L303,02/12/2000,P.0016-0022.

⁷⁸ Preamble of the Council Directive 2000/43/EC, part (12).

The European network of legal experts in the non-discrimination field notes that “in relation to laws on self-employment, it is not precisely clear from the Law on Equal Treatment whether the Directives have been adequately transposed. The laws on particular professions should be expanded to include relevant anti-discrimination provisions. Case law on self-employment remains non-existent”.⁷⁹

3. Manifestations of racism and structural discrimination in employment

After regaining independence, the Republic of Lithuania has since created a liberal and modern legal database implementing basic human rights standards and freedoms. Decision makers provided for the principle of equality into national law. In addition, after joining the European Union and NATO, Lithuania harmonised its legal system with the legal framework of the European Union⁸⁰, ratified human rights related international treaties,^{81,82} Laws on Citizenship,⁸³ Education,⁸⁴ and the Laws on Equal Treatment⁸⁵, Equal Opportunities of Women and Men,⁸⁶ and included in its Constitution⁸⁷ norms on equality and a definition of discrimination.

The Constitution of the Republic of Lithuania, Article 29, states, “The rights of the human being may not be restricted, nor may he be granted any privileges on the ground of gender, race, nationality, language, origin, social status, belief, convictions, or views.” Article 5 of the Law on Education provides for equal opportunities – “the educational system is socially fair, it ensures the implementation of person’s rights, it guarantees the access to education for any person, the attainment of a general education level and a primary qualification, and creates conditions to improve the acquired qualification or gain a new qualification. Definitions are harmonised with EU legal acts on discrimination”.

Both Laws on Equal Treatment and Equal Opportunities of Women and Men generally define “discrimination”. The first law defines discrimination⁸⁸ as “any direct or indirect discrimination, harassment, instruction to discriminate on the grounds of gender, race, nationality, language, origin, social status, belief, convictions or views, age, sexual orientation, disability, ethnic origin or religion”. The latter legal instrument defines

⁷⁹ Andriukaitis G., European network of legal experts in non-discrimination field, Country Report, 2011, Lithuania, “Report on Measures to Combat Discrimination, Directives 2000/43/EC and 2000/78/EC”, <http://www.non-discrimination.net/countries/lithuania>, accessed 8 August 2013, p.6-7.

⁸⁰ E.g. Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, *Official Journal L 303, 02/12/2000 P. 0016 – 0022*.

⁸¹ E.g. Framework Convention for the Protection of National Minorities, 1995.

⁸² Mano teisės, *Rasizmas ir ksenofobija*, <http://www.manoteises.lt/index.php?lang=1&sid=490>, accessed 19 September 2013.

⁸³ Lietuvos Respublikos pilietybės įstatymas, Nr. XI-1196, 2010.

⁸⁴ Article 5, Lietuvos Respublikos švietimo įstatymas, 1991.

⁸⁵ Article 2, Lietuvos Respublikos lygių galimybių įstatymas, 2003.

⁸⁶ Article 2, Lietuvos Respublikos moterų ir vyrų lygių galimybių įstatymas, 1998.

⁸⁷ Constitution of the Republic of Lithuania, 1992.

⁸⁸ Article 2, Lietuvos Respublikos lygių galimybių įstatymas, 2003.

discrimination⁸⁹ as “direct or indirect discrimination, sexual harassment, harassment, instruction to directly or indirectly discriminate a person based on their gender”. There is no legal definition of the term “racism” in Lithuanian legal system.

Until the abolition of the Department of National Minorities and Lithuanians Living Abroad in 2010, it was responsible for “analysing manifestations of racism and xenophobia, source, outcomes and impact of it, providing information to the society, organising and promoting public discussions and meetings on these issues”.⁹⁰ After the Department of National Minorities was abolished, there is no specifically formed institution, which would analyse, *inter alia*, racism and discrimination manifestations merely on the ground of ethnicity.

The Ombudsperson’s Office of Equal Opportunities (The Ombudsperson) acts as an equality body within the State. Its main role in terms of employment is to investigate claims that are related to direct and indirect discrimination on the grounds of, *inter alia*, race, nationality, language, origin, belief, ethnic origin or religion.⁹¹ The Regulation of The Ombudsperson Office provides that it “stores, analyses and summarises data on both Women and Men equal opportunities law and Equal opportunities law violations and data on applied administrative liability cases”.⁹² However, even though The Office can start investigations on its own initiative,⁹³ human rights experts regret that the institution does not provide productive monitoring of discrimination and racism.⁹⁴

In terms of monitoring national and ethnic minorities’ employment, the European Commission against Racism and Intolerance (ECRI) was informed that the Department of National Minorities, prior to its abolition, participated in the designing of the census and that the questionnaire included non-mandatory questions on citizenship, ethnicity, language (including mother tongue plus knowledge of additional languages), religion and employment status. ECRI is satisfied that in the context of the census it was possible to analyse information on employment in conjunction with data related to citizenship, ethnicity, language and religion. The questionnaire was provided in Russian, Polish, English and Lithuanian, and information were posted in Polish and Russian in those regions where there is a high percentage of Polish and Russian speakers. Though this initiative is commendable, ECRI is convinced that this data should be collected and analysed on a continual basis.⁹⁵ In addition, this did not show the level of discrimination and racism in the country.

⁸⁹ Article 2, Lietuvos Respublikos moterų ir vyrų lygių galimybių įstatymas, 1998.

⁹⁰ Article 6.7, Lietuvos Respublikos Vyriausybės nutarimo „Dėl regioninių problemų ir tautinių mažumų departamento prie Lietuvos Respublikos Vyriausybės reorganizavimo į tautinių mažumų ir išėivijos departamentą prie Lietuvos Respublikos Vyriausybės ir šio departamento nuostatų patvirtinimo“ pakeitimo, No. 1370, 1998.

⁹¹ Article 2, Law Amending the Law on Equal Treatment, Republic of Lithuania Law on Equal Treatment, S1, General Provisions.

⁹² Article 6, Dėl Moterų ir vyrų lygių galimybių kontrolieriaus tarnybos pavadinimo pakeitimo ir Lygių galimybių kontrolieriaus tarnybos nuostatų patvirtinimo, 2003.

⁹³ Ibid.

⁹⁴ Baliko, E., European Foundation for Human Rights, Vilnius, interview 20 August 2013. More on this subject at 4.2.2.1. *Ombudsman and equality body*.

⁹⁵ European Commission against Racism and Intolerance (ECRI), Report on Lithuania (fourth monitoring cycle), adopted on 22 June 2011, published on 13 September 2011, p. 48, http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Lithuania/Lithuania_CBC_en.asp, accessed 20 September 2013.

Human Rights NGOs, such as the European Human Rights Fund⁹⁶, Tolerant Youth Association, Human Rights Monitoring Institute and The Ombudsperson's Office of Equal Opportunities monitor cases of discrimination on the internet. Among other grounds, they cover the grounds of ethnicity, nationality. This activity is neither NGOs' nor The Ombudsperson's only focus, therefore, an effective mechanism has to be developed. Interviewed experts note that there is no properly functioning discrimination and racism monitoring mechanism yet⁹⁷. Consequently, it is difficult to recognise discrimination cases on the internet in the field of employment.

3.1 Perceptions of discrimination in employment

There is no official research on society's perception of discrimination. During the interviews, human rights experts, scholars and practitioners, singled out a few levels of perception of discrimination in employment.

First level is general society. Lithuania is a rather homogeneous country. Migrants and refugees (asylum seekers) comprise less than 1% of the labour market, while ethnic minorities comprise 15.9%.⁹⁸ People do not see discrimination in the labour market due to ethnicity or nationality as a major issue. The main problem is that society does not realise what discrimination is, not thinking it could happen to them.⁹⁹

It is more commonly the case that those who perceive discrimination to be an important issue are the ones who have suffered from discrimination personally.¹⁰⁰ People who have not suffered from discrimination are usually only aware of this issue from the media.¹⁰¹ In addition, human rights NGOs and academics work in this field, debating and writing on the various issues.¹⁰²

The second level is authority. Discrimination had never been on the top of the political agenda. Hence, this stipulates a slower flow of information and a lack of political will. All political initiatives have to pass the Parliamentary vote, which is a long procedure. The Social Affairs and Labour Ministry and the Ministry of Culture are responsible bodies for ethnic minorities and antidiscrimination issues, but they do not put much effort into combating discrimination in employment. The general environment and media both reflect the authorities' position and this forms the public opinion.¹⁰³ Authorities do not recognise or ignore issues faced by national or ethnic minorities. In general, ethnicity and national

⁹⁶ European Foundation of Human Rights, <http://lt.efhr.eu/>, accessed 20 September 2013.

⁹⁷ Dr. Žibas, K., Institute for Ethnic Studies, Vilnius, interview 16 July 2013.

⁹⁸ Department of Statistics of the Republic of Lithuania.

⁹⁹ Baliko E., European Foundation for Human Rights, Vilnius, interview 20 August 2013.

¹⁰⁰ Dr. Pilinkaitė-Sotirovič, V., Centre for Equality Advancement, Institute for Ethnic Studies, Vilnius, interview 9 July 2013; Vaigė Laima, Mykolas Romeris University, Institute of International and European Union Law, interview 20 August 2013.

¹⁰¹ Samuolytė Jolanta, Mykolas Romeris University, Institute of International and European Union Law, interview 22 August 2013.

¹⁰² Dr. Ališauskienė Milda, New Religions Research and Information Centre, Vytautas Magnus University, Vilnius, interview 19 August 2013.

¹⁰³ Novopolskaja Svetlana, Roma Community Centre, Vilnius, interview 9 July 2013.

minorities do not amount to a great number, which would pressure Parliament into putting their issues on the top of the political agenda.¹⁰⁴

There is no official research on the frequency of discrimination. Academics note that discrimination and racism in the labour market could be happening on a frequent basis.¹⁰⁵ Officially, the tendency is that discrimination happens incidentally. Representatives of Trade Unions and The Ombudsperson favour this position.¹⁰⁶ Nonetheless, trade unions admit that international companies value competence more than ethnicity.¹⁰⁷ Only a few claims are yearly submitted to the Ombudsperson's Office and even fewer to the Law Enforcement institutions. During the reporting period, there were no cases in the Lithuanian Supreme Court.¹⁰⁸ *De facto*, it is hard to distinguish whether people are not suffering discrimination, do not recognise discrimination or have no motivation in reporting the unfair treatment to the relevant institutions. E.g. mobbing on the ground of ethnicity in the workplace is not conceived as discrimination by society, therefore it is hard to understand and single out discrimination.¹⁰⁹ Discrimination cases are hard to prove, difficult to recognise and not always clearly identifiable.

Considering structural discrimination, immigration policies can be considered as discriminatory *per se*. The state decides whom to let into the country and, by extension, the European Union. The state does this for the purposes of regulating the mobility of people, but immigration policy in itself discriminates against third country nationals. Due to EU and national legislation, migrants with higher education qualifications have fewer difficulties in employment.¹¹⁰

In 2012, the Ethnic Research Institute concluded a public opinion poll on what policy the Lithuanian government should adopt towards immigrants from poorer countries. The majority of respondents agreed to allow immigration if there are jobs for them. In addition, respondents agreed with the strict regulation of the number of immigrants. People strongly disagreed with allowing immigration for all who want to work, but also strongly disagreed with the idea to ban immigration to Lithuania.¹¹¹

¹⁰⁴ Dr. Pilinkaitė-Sotirovič Vilana, Centre for Equality Advancement, Institute for Ethnic Studies, Vilnius, interview 9 July 2013.

¹⁰⁵ Siniovas Vladimiras, Mykolas Romeris University, Institute of International and European Union Law, interview 30 July 2013.

¹⁰⁶ Gruzdienė Gražina, Lithuanian Trade Union of Food Producers, Vilnius, interview 27 August 2013; Posochovas Aleksandras, Lithuanian Service Workers' Trade Union, Vilnius, interview 27 August 2013; Turonis Romas, Lithuanian Education Trade Union, Vilnius, interview 22 August 2013; Grigolovičienė Danguolė, Equal Opportunities Ombudsperson's Office, Vilnius, interview 12 July 2013.

¹⁰⁷ Gruzdienė Gražina, Lithuanian Trade Union of Food Producers, Vilnius, interview 27 August 2013.

¹⁰⁸ Samuolytė Jolanta, Mykolas Romeris University, Institute of International and European Union Law, interview 22 August 2013.

¹⁰⁹ Dr. Pilinkaitė-Sotirovič, Vilana, Centre for Equality Advancement, Institute for Ethnic Studies, Vilnius, interview 9 July 2013.

¹¹⁰ Article 33, Article 44¹, Įstatymas dėl užsieniečių teisinės padėties, 2004 (as last amended in 2013). Parliament has consolidated national law with Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment.

¹¹¹ Institute for Ethnic Studies, opinion poll financed by The Research Council of Lithuania, available at <http://ces.lt/en/#&panel1-3>, accessed 21 September 2013.

Statistically, unemployment is more widespread among ethnic minorities compared to the majority population. Migrants from third countries come to Lithuania only with a valid working permit and an employment contract. Therefore, they have restricted mobility in the labour market – they cannot change work place, employers can fire employees at any stage of the contract, workers become vulnerable and can potentially be abused. If an employer terminates the contract, an employee has to leave the country in 3 days. There were cases¹¹² when a migrant worker did not receive his/her salary, then they were fired and had to leave the country. It is not a wide spread practice in Lithuania, but there are cases. The structural problem is that such people do not turn to institutions for redress, even though mechanisms have been developed. Work migrants have none or little information¹¹³.

Refugees and asylum seekers find themselves in Lithuania because of having fled their homes due to a well-founded fear of persecution, threat to life. They do not come voluntarily, usually suffer from psychological trauma and therefore their integration becomes even more difficult. Foreigners are not acquainted with their rights in employment. They face such situations when employers do not formalise their employment or do not pay them for work completed.¹¹⁴ A public opinion survey has found that 16.3% of people would not want to work with refugees.¹¹⁵ Public opinion towards refugees is negative. Social workers from the Lithuanian Red Cross Society and Centre PLUS provide services as going together with refugees to work interviews in order to mediate and advocate.

Asylum seekers who gain subsidiary protection have to apply for a new residence permit yearly. Temporary residence permit cannot be extended. This is an example of structural discrimination. An employer has no intention of employing a person who has been granted a temporary residence permit and potentially will have to leave the country in 5-6 months.¹¹⁶ Economic principles stipulate that most migrants work in transport and construction sectors.¹¹⁷ Consequently, 95 – 97% of labour migrants are men.¹¹⁸ An important consideration, which stems from this, is whether there is discrimination towards migrant women.

Migrant women or women with a national minority background have a very precarious position in the labour market. Academics and experts stress the need for research on this issue. Having no official data leaves uncertainty in this narrow field. Data gathered during

¹¹² Posochovas Aleksandras, Lithuanian Service Workers' Trade Union, Vilnius, interview 27 August 2013.

¹¹³ Dr. Žibas Karolis, Institute for Ethnic Studies, Vilnius, interview 16 July 2013.

¹¹⁴ Ibid. Posochovas Aleksandras, Lithuanian Service Workers' Trade Union, Vilnius, interview 27 August 2013.

¹¹⁵ Lithuanian Social Research Centre, Institute for Ethnic Studies, The results of a public opinion survey conducted by market research and public opinion company Baltic surveys Ltd. by request of the Institute of Ethnic Studies at the Lithuanian Social Research Centre; 1,000 respondents aged 15–74 were interviewed. Available at: www.ces.lt, accessed on 20 September 2013.

¹¹⁶ Siniovas Vladimiras, Mykolas Romeris University, Institute of International and European Union Law, interview 30 July 2013.

¹¹⁷ Europos migracijos tinklas, Top 5 foreigners' professions, <http://123.emn.lt/en/labour-immigration/top-5-foreigners-professions>, accessed 28 September 2013.

¹¹⁸ Dr. Žibas Karolis, Institute for Ethnic Studies, Vilnius, interview 16 July 2013; Dr. Žibas K., Immigration Trends of Third Country Nationals in Lithuania (2004-2008). Ethnicity Studies 2009/2. Migrant Integration: Third Country Nationals in Lithuania. Institute for Social Research, Vilnius: Eugrimas, p. 17-39 ISSN 1822-1041. (Žibas K. Issue Editor).

interviews show that women are in a much more difficult position. Taking into account cultural differences, third country migrant women were less paid for the same work.¹¹⁹ In addition, most women come to Lithuania for family reunification purposes. Usually they depend on their spouse's recourses and take care of their families and household. Hence, frequently these women are pushed to stay at home. Subsequently, they cannot integrate into society, cannot learn the language. When it comes to integration into labour market, there is a very clear language barrier. Language barriers pose a problem and if migrants are not assisted, it is difficult to integrate. Work positions usually require high level of language.¹²⁰

It is harder to prove discrimination for national minority women. Usually second-generation migrants, born in Lithuania, are able to integrate. However, there are cases when a person's surname determines the outcome of his/her candidacy for a position. The most difficult situation is for Roma women, who are easily identified and often openly discriminated. It also has to be noted that women usually suffer multiple discrimination – because of their gender, skin colour and origin.¹²¹

There is no legal act, which expressly provides for the integration of migrant or national minority women in the labour market. An inter-institutional action plan for promoting non-discrimination for 2012-2014¹²² identifies gender discrimination as an important issue and a ground of discrimination. It partially covers national minorities (especially Roma women) and migrant women in the labour market, among other fields.

The situation of religious minorities is not as complicated as that of ethnic minorities. Religious beliefs are not easily seen, employers do not require declaring religion in Curriculum Vitae nor do they demand particular religion in the job advertisement. However, people who confess their religious affiliation, which is not traditional¹²³, admit they are discriminated. The New Religions Research Centre noted that people confessing their religion sometimes increases the stress level LGBT people experience when coming out. In general, society has a negative opinion towards religions such as Islam, Jehovah's Witnesses, Hinduism, Buddhism,¹²⁴ and other (untraditional) confessions of Christian doctrine, e.g. the Word of Faith – Christian Fellowship, Baptism, and the Pentecostals. According to the

¹¹⁹ Dr. Pilinkaitė-Sotirovič, Vilana, Centre for Equality Advancement, Institute for Ethnic Studies, Vilnius, interview 9 July 2013: Asian couple earned different salaries due to "Asian cultural tradition" – women could not earn more than men.

¹²⁰ Dr. Žibas Karolis, Institute for Ethnic Studies, Vilnius, interview 16 July 2013.

¹²¹ Vaigė Laima, Mykolas Romeris University, Institute of International and European Union Law, interview 20 August 2013.

¹²² Resolution of The Government of the Republic of Lithuania on Inter-institutional action plan for promoting non-discrimination for 2012-2014, 2011.

¹²³ Article 5, Law on Religious Communities and Associations : "Traditional Religious Communities and Associations of Lithuania: The State shall recognize nine traditional religious communities and associations existing in Lithuania, which comprise a part of Lithuania's historical, spiritual and social heritage: Roman Catholic, Greek Catholic, Evangelical Lutheran, Evangelical Reformed, Russian Orthodox, Old Believer, Judaist, Sunni Muslim and Karaite.", 1995.

¹²⁴ Lithuanian Social Research Centre, Institute for Ethnic Studies, The results of a public opinion survey conducted by market research and public opinion company Baltic surveys Ltd. by request of the Institute of Ethnic Studies at the Lithuanian Social Research Centre; 1,000 respondents aged 15–74 were interviewed. Available at: www.ces.lt, accessed on 20 September 2013.

research, 43% of representatives of untraditional religious groups have suffered discrimination in the work place.¹²⁵

The main struggle is the lack of information available on how to file a complaint.¹²⁶ This can be further compounded by the unwillingness of some victims to assert their rights.¹²⁷

Labour market discrimination and racism is neither on the political agenda nor in the public discourse. No research is available publicly on the developments of political parties or political groups with anti-immigrant, anti-Muslim, extremist, xenophobic, neo-Nazi, anti-Roma or nationalistic agendas in 2012.¹²⁸ There were no women from national minorities elected to the Parliament in the last Parliamentary term. One Member of Parliament (MP) of this Parliamentary term however is of an ethnic minority background.

Therefore, developments have not taken place during the reporting period. A new political legal instrument entitled “Conditions and description of the procedure of the issuance of work permits to foreigners”¹²⁹ was introduced, which replaces the previous version of the same regulation. Institutions are about to facilitate work permit validation to highly qualified workers and a draft law is being prepared to this effect. The Vice-Minister of the Ministry of Interior has noted that the procedure of issuing a residence permit to highly qualified staff would take up to a month. Experts and entrepreneurs do not find the draft law innovative as the procedure remains significantly long.¹³⁰

3.2 Incidence of discrimination in employment

Experts claim that discrimination on the grounds of ethnicity, nationality, religion is not predominant in contrast to the grounds of sexual orientation, gender, age.¹³¹ In 2012, the Office of the Equal Opportunities Ombudsperson received eight complaints regarding discrimination on the grounds of nationality. One of these complaints was in the sphere of employment. The Office of the Equal Opportunities Ombudsperson also received six complaints regarding discrimination on the grounds of language. Two of these complaints were in the sphere of employment; four complaints regarding discrimination on the grounds of ethnicity and two of them were from the sphere of employment.¹³²

¹²⁵ New Religions Research and Information Centre, “Tylos zona”: religinė diskriminacija šiuolaikinėje Lietuvoje, 2012.

¹²⁶ Dr. Pilinkaitė-Sotirovič, Vilana, Centre for Equality Advancement, Institute for Ethnic Studies, Vilnius, interview 9 July 2013.

¹²⁷ Dr. Žibas Karolis, Institute for Ethnic Studies, Vilnius, interview 16 July 2013.

¹²⁸ Dr. Pilinkaitė-Sotirovič, Vilana, Centre for Equality Advancement, Institute for Ethnic Studies, Vilnius, interview 9 July 2013.

¹²⁹ Dėl Leidimo dirbti užsieniečiams išdavimo sąlygų ir tvarkos aprašo patvirtinimo, 2013.

¹³⁰ Delfi.lt, “Ekspertė: Lietuvoje trokštami imigrantai gali nusispjauti ir išvažiuoti”, Krasauskas I., 29 July 2013.

¹³¹ Grigolovičienė Danguolė, Equal Opportunities Ombudsperson’s Office, Vilnius, interview 12 July 2013.

Dr. Ališauskienė Milda, New Religions Research and Information Centre, Vytautas Magnus University, Vilnius, interview 19 August 2013.

Bereznicki Junona, Lithuanian Jewish Community, interview 3 September 2013.

¹³² Lygių galimybių kontrolieriaus tarnybos 2012 m. ataskaita, <http://www.lygybe.lt/lt/metines-tarnybos-ataskaitos.html>, accessed 5 August 2013.

EU citizens face a less complicated procedure when accessing employment. Both third country nationals (migrants), especially refugees, asylum seekers and national minorities suffer from negative stereotypes. Incidences of discrimination appear at different stages of employment: accessing the market and discrimination in a workplace. At the stage of accessing the market, evidence of direct discrimination can be found, e.g. cases where the employer refuses the candidate because of their ethnic surname or accent. Language barriers also play an important role. National minorities for example are able to use the Lithuanian language with more ease than migrants.¹³³

Religious minorities usually do not face discrimination while accessing labour market, but are discriminated in the workplace. Discrimination in the workplace is more indirect than direct. Third country nationals are paid less than Lithuanian citizens are¹³⁴; have to work more overtime hours for less.¹³⁵ Structural discrimination can be identified when certain regulations put foreigners in a worse position, e.g. the candidate who seeks to qualify as an attorney-at-law has to fulfil the requirement of having a Lithuanian or another EU country citizenship.¹³⁶ Experts stress social injustice towards foreigners when they cannot access high occupational levels¹³⁷.

There has been no recent research conducted on national minorities' integration in the labour market. The Lithuanian Social Research Centre's Labour and Social Research Institute conducted the most relevant research in 2010. During the research, respondents were asked to answer what are the main problems that national minorities face while entering employment or recommendations to improve the situation in the labour market. Respondents indicated several problems, only a few of which were related to ethnicity. The survey indicated that national minorities, while seeking to establish themselves in the labour market, faced problems of a general nature like the rest of the participants of the labour market: low salaries, lack of preparation for the job market (low knowledge of foreign languages, insufficient qualifications), etc. Nonetheless, respondents identified few problems that were related to ethnicity. The main issue was the insufficient knowledge of Lithuanian (42% of respondents); further issues were expressed as being their employer's negative approach to their ethnicity (10.8%) and 8.5% identified overall discrimination due to nationality in labour market. One of the problems was the non-recognition of qualification documents in Lithuania (6.8%), one respondent indicated limited opportunities in being promoted based on ethnic origin.¹³⁸

A representative public-opinion survey on the social distance between various groups and attitudes towards immigration was conducted in 2012.¹³⁹ 43.1% of respondents stated that

¹³³ Siniovas Vladimiras, Mykolas Romeris University, Institute of International and European Union Law, Vilnius, interview 30 July 2013.

¹³⁴ Posochovas Aleksandras, Lithuanian Service Workers' Trade Union, Vilnius, interview 27 August 2013.

¹³⁵ Zaher Ehab, Bartkevičienė Aistė, Mukauskaitė Ieva, Consultation and Information Centre PLUS, interview 3 September 2013.

¹³⁶ Article 7, Lietuvos Respublikos advokatūros įstatymas, 2004.

¹³⁷ Siniovas Vladimiras, Mykolas Romeris University, Institute of International and European Union Law, Vilnius, interview 30 July 2013.

¹³⁸ Okunevičiūtė Neverauskienė L. 'Tautinių mažumų integracijos į darbo rinką aspektai', *Filosofija. Sociologija*, 2010. T.21. Nr.4. Vilnius: Lietuvos mokslų akademijos leidykla. P. 251-252.

¹³⁹ Lithuanian Social Research Centre, Institute for Ethnic Studies, The results of a public opinion survey conducted by market research and public opinion company Baltic surveys Ltd. by request of

they would not like to work with Roma, 24.9% – with Muslims, 22.5% – with Chechens and 16.3% – with refugees.¹⁴⁰ Jehovah's Witnesses and Word of Faith – Christian Fellowship are religious communities who also suffer from discrimination¹⁴¹.

3.3 Patterns of inequality over the course of time

Summarising experts' findings, it can be said that the situation has improved during the last 10 years: relevant laws have been introduced, Lithuania harmonised its legal system with the European Union's legal framework, Trade Unions became more effective and religious minorities are not as isolated as they were in the past, speaking out more about their concerns.¹⁴² More people talk about issues of discrimination. NGOs became the main actor in fighting inequality, initiating the development of the infrastructure to support vulnerable groups.

However, NGOs' activities remain fragmented,¹⁴³ especially during the financial crisis, due to budgetary issues. Lithuanian society lacks a social construct and it has been said that ethnicity is also a social relations construct.¹⁴⁴ The Department of National Minorities under the authority of the Republic of Lithuania, which was responsible for national minorities issues, ceased to exist in 2010. No effective mechanism has been created to take its place. The economic and financial crisis had a negative impact on discrimination victims, as they were afraid to file claims for fear of losing their jobs.¹⁴⁵

The number of labour migrants dropped significantly during the crisis,¹⁴⁶ e.g. before the crises, in 2008, 7819 work permits were issued. Year after, when financial crises had hit the economy, 2239 work permits were issued and in 2010 number dropped to 1808. During further years, number of work permits started to rise again. However, it has not reached the number of 2009¹⁴⁷.

In the long term, there is tendency that the Russian minority is able to adjust to the situation faster, parents send their children to Lithuanian schools so they could develop language skills and social networks, and consequently would be able to pursue a better career. On the other hand, Russian youth tend to emigrate more. The number of children in the Polish minority schools has not significantly changed during the past ten years.¹⁴⁸ The economic

the Institute of Ethnic Studies at the Lithuanian Social Research Centre; 1,000 respondents aged 15–74 were interviewed. Available at: www.ces.lt, accessed on 20 September 2013.

¹⁴⁰ Ibid.

¹⁴¹ Dr. Ališauskienė Milda, New Religions Research and Information Centre, Vytautas Magnus University, Vilnius, interview 19 August 2013.

¹⁴² Ibid.

¹⁴³ Dr. Žibas Karolis, Institute for Ethnic Studies, Vilnius, interview 16 July 2013.

¹⁴⁴ Dr. Pilinkaitė-Sotirovič Vilana, Centre for Equality Advancement, Institute for Ethnic Studies, Vilnius, interview 9 July 2013.

¹⁴⁵ Lygių galimybių kontrolieriaus tarnybos 2012 m. ataskaita, <http://www.lygybe.lt/lt/metines-tarnybos-ataskaitos.html>, accessed 29 September 2013.

¹⁴⁶ Žibas Karolis, "Migrantų integracijos procesai Lietuvoje: tendencijos ir problematika. „Integra: pirmieji migrantų integravimosi žingsniai naujoje visuomenėje“, Lietuvos socialinių tyrimų centras, Etninių tyrimų institutas, 2012, Vilnius.

¹⁴⁷ Europos migracijos tinklas, *How many foreigners work in Lithuania?* <http://123.emn.lt/en/labour-immigration/how-many-foreigners-work-in-lithuania>, accessed 3 January 2014.

¹⁴⁸ Information of Centre for Ethnic Studies, www.ces.lt, accessed 20 September 2013.

crisis has affected the Polish community as they tend to work in family based, small enterprises. Many of them were closed during the financial crisis.¹⁴⁹ The Roma community remains the most vulnerable group.¹⁵⁰ According to public opinion polls¹⁵¹, during the past ten years, negativity towards Roma community has not ceased to exist. Social workers have to prioritise assistance to Roma community in employment. It is hard to find social partners that would employ Roma people.¹⁵²

Gender remains one of the most dominant grounds of discrimination at the workplace and the number of cases on age discrimination has significantly increased during the economic crisis. During the period of crises, many enterprises were closed and state institutions could not hire new staff due to budgetary cuts. This increased the level of unemployment. According to the Lithuanian Education Trade Union, teachers of pension age were forced to leave the work place so that young specialists could take their place. However, people rarely turn to relevant authorities due to the fear of losing their job.¹⁵³ Therefore, it was hard to determine the frequency of discrimination due to nationality or ethnic origin, religion. There were less discriminative job announcements during the past few years.¹⁵⁴

Nonetheless, young and elderly people have difficulties in finding employment, irrespective of their ethnicity or religion.

3.4 Discrimination in access to employment

National minorities – 45.9% of women and 16.8% of men – had indicated that access to the labour market was one of the main problems they encountered in the employment sector. In addition, more national minorities' women than men had specified that discrimination in accessing employment related to salary discrimination (13.3% women and 3.7% men), the “glass ceiling” (12.6% of women and 5.3% of men) and working conditions (10.4% women and 4.1% men).¹⁵⁵

Belarusians, Russians and Ukrainians stated that during the “job hunting” period they tend to use the internet and job announcements in newspapers to find work. Respondents use social networking more than the help of friends and acquaintances. Migrants usually successfully reach the labour market through their social networks with the mainstream society and public institutions.¹⁵⁶ 22.5% of students and 6.1% of working non-EU citizens

¹⁴⁹ Dr. Pilinkaitė-Sotirovič Vilana, Centre for Equality Advancement, Institute for Ethnic Studies, Vilnius, interview 9 July 2013.

¹⁵⁰ Novopolskaja Svetlana, Roma Community Centre, Vilnius, interview 9 July 2013.

¹⁵¹ Lithuanian Social Research Centre, Institute for Ethnic Studies, The results of a public opinion survey conducted by market research and public opinion company Baltic surveys Ltd. by request of the Institute of Ethnic Studies at the Lithuanian Social Research Centre; 1,000 respondents aged 15–74 were interviewed. Available at: www.ces.lt, accessed on 20 September 2013.

¹⁵² Novopolskaja Svetlana, Roma Community Centre, Vilnius, interview 9 July 2013.

¹⁵³ Turonis Romas, Lithuanian Education Trade Union, Vilnius, interview 22 August 2013.

¹⁵⁴ Baliko Ewelina, European Foundation for Human Rights, Vilnius, interview 20 August 2013.

¹⁵⁵ Okunevičiūtė Neverauskienė L. ‘Tautinių mažumų integracijos į darbo rinką aspektai’, *Filosofija. Sociologija*, 2010. T.21. Nr.4. Vilnius: Lietuvos mokslų akademijos leidykla. P.251-252.

¹⁵⁶ Žibas K., ‘Baltarusiai, rusai ir ukrainiečiai Lietuvoje: nuo imigrantų iki ateities piliečių’, *Ethnicity Studies*, 2012/1-2 (2012), 145-177.

have faced negative attitudes during the job hunting process, i.e. access to employment stage.¹⁵⁷

The Lithuanian Labour Exchange under the Ministry of Social Security and Labour is responsible for granting work permits to foreigners who live in Lithuania with temporary work permits (people who live in the country with a permanent residence permit do not require a work permit). Third country nationals are allowed to be employed in positions where there are no other candidates available who are either Lithuanian or EU citizens. They must register at the Labour Exchange at least one month before the employer announces the vacancy. Meanwhile, the employer must announce the vacancy publicly and wait for at least one month. When there is no suitable Lithuanian or EU candidate, the employer can submit an application to Labour Exchange to hire a third country national. In case a person is hired, they obtain a work permit for that particular position. Work permits are granted for up to two years.¹⁵⁸ Most work permits were issued to international cargo vehicle drivers (3 265). Metal naval hull assemblers and welders also received notable a number of work permits (406 and 322 respectively).¹⁵⁹

Students from outside the EU face similar difficulties when they apply for a work permit. In addition to the existing procedure, students can obtain a work permit starting from the second year of their studies. Students can work if they study part-time but for not more than 20 hours per week.¹⁶⁰

Although experts explain that discrimination is difficult to prove in all stages, there are certain groups of people, mentioned below, who are most likely to be directly discriminated against. No such cases however were brought to court during the reporting period.

The Roma Community Centre notes that the Roma community in Lithuania is the group, which falls among the least hired. Due to stereotypes, social workers from the Roma Community Centre mediate in the hiring process. Employers do not trust Roma people and are prejudiced against them, and so representatives of the Roma Community Centre have to fight to prove that the Roma person in question is suitable for the position.¹⁶¹

The appearance of the person plays an important role during the hiring process. It is relatively easier for Russians, Ukrainians, Belarusians to be recruited compared with Turkish and Chinese minorities in Lithuania.¹⁶²

The Red Cross Society of Lithuania has noted that some employers give preference to Lithuanians due to stereotypical attitudes towards refugees.¹⁶³

¹⁵⁷ Beresnevičiūtė V., Leončikas T., Žibas K., "Migrantų gyvenimas Lietuvoje: visuomenės nuostatos ir migrantų patirtys", *Ethnicity Studies*, 2009/02 (2009), 77-110.

¹⁵⁸ The Lithuanian Labour Exchange under the Ministry of Social Security and Labour, Answer No. Sd-2221 to the inquiry, 13 August 2013.

¹⁵⁹ Europos migracijos tinklas, *Top 5 foreigners' professions*, <http://123.emn.lt/en/labour-immigration/top-5-foreigners-professions>, accessed 28 September 2013.

¹⁶⁰ The Lithuanian Labour Exchange under the Ministry of Social Security and Labour information, https://www.ldb.lt/INFORMACIJA/PASLAUGOSDARBDAMIAMS/Puslapiai/uzsienieciu_idarbinimas.aspx, accessed 28 September 2013.

¹⁶¹ Novopolskaja Svetlana, Roma Community Centre, Vilnius, interview 9 July 2013.

¹⁶² Dr. Žibas Karolis, Institute for Ethnic Studies, Vilnius, interview 16 July 2013.

Job vacancy adverts still require knowledge of the Lithuanian language in cases where language is actually irrelevant in order to carry out requirements of the position, e.g. for the job of a dishwasher, mechanic or construction worker. Egyptian citizen did not get the position in construction due to the lack of knowledge of the Lithuanian language.¹⁶⁴ The Ombudsperson noted that there was a case when the Vilnius District Municipality demanded Polish language for a position in the administration department. The Municipality could not prove the necessity of knowing Polish for the position. There were cases when Russian-speakers filed complaints to the Ombudsperson, but there was not enough evidence to prove discrimination.¹⁶⁵

The Minister of Social Security and Labour released a call for EU structural funds – financing conditions for the Programme for the Development of Human Resources.¹⁶⁶ The community of Baptists turned to the Ombudsperson’s Office due to discrimination on the ground of religion in Article 17.4 of abovementioned Minister’s Order. Article 17.4 states that only traditional religious communities could be acceptable as project applicants. Despite the fact that the Baptists community is involved in social welfare activities, it could not apply for EU structural funds. According to the Law on Religious communities and communions, Baptism is a non-traditional confession. The Ombudsperson started investigation on own initiative, analysed the situation and released a statement with the decision. The outcome of the decision was a recommendation for the Ministry of Social Security and Labour to evaluate all provisions of the Law on Equal Treatment to prevent any possible discrimination in the future calls for EU funds.¹⁶⁷ The investigated Order was not amended.

An Afghan student, studying Law in Lithuania, reported he would not be able to pursue a attorney-at-law career in Lithuania, as Lithuanian citizens are only able to become advocates under the Lithuanian Bar law.¹⁶⁸ As a student with a residence permit, some professions are not available to him.¹⁶⁹

The Roma Community Centre noted the example of structural discrimination caused by institutional policy. A Vilnius city municipality enterprise “*Susisiekimo paslaugos*” (“Communication service”) is responsible for regulating the public transport of Vilnius. Kirtimai is a settlement of the Roma community in the south of the city. During the reporting period, Kirtimai had only one public bus route connecting it to the city and its timetable was

¹⁶³ Dr. Pilinkaitė-Sotirovič Vilana, Centre for Equality Advancement, Institute for Ethnic Studies, Vilnius, interview 9 July 2013; Siniovas Vladimiras, Mykolas Romeris University, Institute of International and European Union Law, Vilnius, interview 30 July 2013.

¹⁶⁴ Zaher Ehab, Bartkevičienė Aistė, Mukauskaitė Ieva, Consultation and Information Centre PLUS, Vilnius, interview 3 September 2013.

¹⁶⁵ Grigolovičienė Danguolė, Equal Opportunities Ombudsperson’s Office, Vilnius, interview 12 July 2013.

¹⁶⁶ Order of the Minister of Social Security and Labour of the Republic of Lithuania due to the Programme for the Development of Human Resources 2007–2013, 1st priority “Quality Employment and Social inclusion” VP1-1.3-SADM-02-K measure “Integration to labour market of people experiencing social risk and social exclusion” projects financing conditions description approval, 2011.

¹⁶⁷ Equal Opportunities Ombudsperson’s Office, Statement on discrimination on the ground of believe, investigated on own initiative (*Pažyma dėl savo iniciatyva pradėto tyrimo dėl diskriminacijos tikėjimo pagrindu*), 28 April 2011, No. (11-SN-32).

¹⁶⁸ Lietuvos Respublikos advokatūros įstatymas, 2004.

¹⁶⁹ Siniovas Vladimiras, Mykolas Romeris University, Institute of International and European Union Law, Vilnius, interview 30 July 2013.

very infrequent due to the small number of people using it. As a result, sometimes there were no possibilities for people to get to the city to work or schoolchildren found it incredibly difficult to come back from school.¹⁷⁰ The Vilnius city municipality stated it would facilitate new public transport routes on 1 July 2013 with more scheduled runs to Kirtimai.¹⁷¹

The Republic of Lithuania recognises foreign qualifications. There are two recognition types approved by the government. An employer has to present either a copy of the Centre for Quality Assessment in Higher Education decision (in cases when the profession is not regulated in Lithuania, higher education is required)¹⁷² together with a copy of the diploma or corresponding document, either a copy of the decision by the competent institution¹⁷³ (in case the profession is regulated in Lithuania by law¹⁷⁴).¹⁷⁵ An expert on asylum noted that there are cases when Lithuania does not approve diplomas or asylum seekers have no possibility of bringing their qualification documents, which places them in a very disadvantaged situation. Hence, they cannot prove their academic competence.¹⁷⁶ The procedure of equalising foreign qualifications takes 2-4 months. Competent institutions have to verify diplomas and the procedure is free of charge.¹⁷⁷

All of interviewed experts¹⁷⁸ have noted that hiring agencies do not reinforce discrimination patterns. Agencies usually intermediate between employers and job seekers, and implement employers' requirements for the particular vacant positions.

In terms of educational institutions, in 2010, the Ombudsperson and Tolerant Youth Association conducted a research on discrimination in secondary school history textbooks.¹⁷⁹ Among other findings, experts distinguished ethnic and religious discrimination in one textbook – elements of euro-centrism, in another – ethnocentrism and nationalistic attitudes. There were cases in the past when pre-school children were taught songs of a discriminatory nature.¹⁸⁰ The Consultation and Information Centre PLUS notes that academic

¹⁷⁰ Novopolskaja Svetlana, Roma Community Centre, Vilnius, interview 9 July 2013.

¹⁷¹ Routes and Timetables, <http://www.stops.lt/vilnius/#bus/3/b-a/2653/en>, accessed 29 September 2013.

¹⁷² Lietuvos Respublikos Vyriausybės nutarimas Nr. 212 "Dėl Išsilavinimo ir kvalifikacijų, susijusių su aukštojo mokslu ir įgytų pagal užsienio valstybių ir tarptautinių organizacijų švietimo programas, pripažinimo tvarkos aprašo patvirtinimo", 2012.

¹⁷³ Lietuvos Respublikos Vyriausybės nutarimas "Dėl Trečiųjų šalių piliečių reglamentuojamų profesinių kvalifikacijų pripažinimo", 2011.

¹⁷⁴ Lietuvos Respublikos ūkio ministro įsakymas "Dėl Lietuvos Respublikoje reglamentuojamų profesijų sąrašo patvirtinimo", 2010.

¹⁷⁵ The Lithuanian Labour Exchange under the Ministry of Social Security and Labour, Answer No. Sd-2221 to the inquiry, 13 August 2013.

¹⁷⁶ Siniovas Vladimiras, Mykolas Romeris University, Institute of International and European Union Law, Vilnius, interview 30 July 2013

¹⁷⁷ Zaher Ehab, Bartkevičienė Aistė, Mukauskaitė Ieva, Consultation and Information Centre PLUS, Vilnius, interview 3 September 2013.

¹⁷⁸ See bibliography.

¹⁷⁹ Grigolovičienė Danguolė, Equal Opportunities Ombudsperson's Office, Vilnius, interview 12 July 2013; delfi.lt, "Vadovėliuose rasta seksizmo, etnocentrizmo ir antiamerikanizmo apraiškų", Zverko N., 13 May 2010.

¹⁸⁰ See ENAR Shadow Report 2010-2011, 'Racism and related discriminatory practices in Lithuania', p.18.

society sometimes promulgate negative attitudes towards University students from non-EU countries.¹⁸¹

The key challenges when it comes to recruiting a diverse workforce and achieving fair hiring practices are ethnic stereotyping, lack of knowledge and fear. In addition, companies have no intention to create a diverse workforce policy or rules due to the small number of ethnic/religious minorities. Nonetheless, from 1 October 2014, the state's institutions will have to ensure equal opportunities in their strategic planning documents. Municipal institutions will ensure the means for equal opportunities in municipal strategic development and (or) municipal strategic action plan.¹⁸²

3.5 Discrimination in the workplace

43.8% of national minorities have indicated they faced discrimination in the labour market or the workplace itself. Among the most commonly faced problems, 23.7% of women and 11.5% of men indicated the pursuit of a career in the workplace.¹⁸³

Due to social networking among foreigners and negative stereotyping by employers, it is very common that foreigners work with foreigners.¹⁸⁴ Roma remain one of the most vulnerable social groups in Lithuania in the labour market. This community face negative profiling from both employers and their colleagues.

In general, discrimination in the workplace is harder to prove. Moreover, the Ombudsperson reports that the tendency has remained the same during the reporting period – employees are afraid to file claims against their employers.¹⁸⁵ Trade Unions are not strong in this field: employees do not turn to their Trade Union's representatives for assistance.¹⁸⁶

Evidence of discrimination at the workplace can be usually detected only during the social research process. The New Religions Research and Information Centre noted a few cases. A secondary school teacher's ability to teach Mathematics was put into question after her untraditional confession as a Jehovah's Witness. Another teacher, who taught Religion in school, lost the right to teach after she gave birth to a child, but was an unmarried single mother. According to the regulation, teachers of religion studies have to acquire education in religion studies and receive approval from the bishop in order to teach. Giving birth to a child out of wedlock was not in line with the Catholic Church's values. This was the justification provided for why she could not be approved as a teacher of religious studies. The Principle of the school intervened in this situation by sending the woman to requalification courses so she could stay in school. None of aforementioned cases were filed

¹⁸¹ Zaher Ehab, Bartkevičienė Aistė, Mukauskaitė Ieva, Consultation and Information Centre PLUS, Vilnius, interview 3 September 2013.

¹⁸² Lygių galimybių įstatymo 5 straipsnio pakeitimo ir papildymo įstatymas, 2013.

¹⁸³ Okunevičiūtė Neverauskienė L. 'Tautinių mažumų integracijos į darbo rinką aspektai', *Filosofija. Sociologija*, 2010. T.21. Nr.4. Vilnius: Lietuvos mokslų akademijos leidykla. p.251-252.

¹⁸⁴ Zaher Ehab, Bartkevičienė Aistė, Mukauskaitė Ieva, Consultation and Information Centre PLUS, Vilnius, interview 3 September 2013.

¹⁸⁵ Lygių galimybių kontrolieriaus tarnybos 2012 m. ataskaita, <http://www.lygybe.lt/lt/metines-tarnybos-ataskaitos.html>, accessed 29 September 2013.

¹⁸⁶ Turonis Romas, Lithuanian Education Trade Union, Vilnius, interview 22 August 2013.

to any of the competent institutions. Officially, there is no evidence that discrimination on grounds of religion take place, even though this is clearly not the case.¹⁸⁷

A woman of Russian background filed a complaint to the Ombudsperson due to her colleagues' constant bullying and harassment at work. The Ombudsperson analysed the case, found there had been Equal Opportunities Law violations and turned to the Director of the company with recommendations to improve the working environment. In the framework of the Equal Opportunities Law, the Ombudsperson could not impose administrative sanctions to employees, because the Law on Equal Opportunities states that sanctions can only be applied to the employer.

Indirect discrimination in the workplace usually takes the form of language discrimination. The European Foundation for Human Rights notes the existence of indirect discrimination in a case where a Polish citizen was hired to work in a position, directly connected to the Russian market, and the language required for communication was Russian. Nonetheless, according to the Law, the employee had to have the appropriate Lithuanian language level to perform certain functions. The Labour Inspectorate checked the company and found out the complainant was not informed about the language requirements. The Labour Inspectorate ordered to pass the Lithuanian language exam.¹⁸⁸ Further, taxi drivers are not allowed to talk in a language other than Lithuanian via their taxi radios during their shift.¹⁸⁹

A significant racist incident in the small town of Trakai was reported by the mass media in July 2012: a businessperson from the Philippines (and his Lithuanian wife) was beaten and insulted by racist hate speech by a local man and his accomplices. It is presumed that the man and his accomplices, all members of criminal world, wanted a payment from the businessman for running a business in Trakai. The Embassy of the Philippines in Stockholm submitted nota to the Ministry of Foreign Affairs of the Republic of Lithuania due to this incident.¹⁹⁰

Religious minorities usually experience indirect discrimination. During the process of accessing the labour market, job announcements do not explicitly state that the particular profession requires someone who has a traditional confession background, nor would this be directly acknowledged during the job interview. However, representatives of untraditional confessions or confessions that are not mainstream¹⁹¹, might suffer indirect discrimination in the workplace after colleagues of employer learns this.¹⁹²

A Muslim person, who worked in a Lithuanian manufacturing company, was denied access to praying time on Fridays. The employer turned down suggestions and was unwilling to negotiate accommodating the man's religious needs, claiming conditions are the same to all

¹⁸⁷ Dr. Ališauskienė Milda, New Religions Research and Information Centre, Vytautas Magnus University, Vilnius, interview 19 August 2013.

¹⁸⁸ Baliko Ewelina, European Foundation for Human Rights, Vilnius, interview 20 August 2013.

¹⁸⁹ Novopolskaja Svetlana, Roma Community Centre, Vilnius, interview 9 July 2013.

¹⁹⁰ Delfi.lt, "Po užsieniečio užpuolimo Trakuose – Filipinų ambasados nota", Bardauskas J., 2 July 2012.

¹⁹¹ Traditional confessions according to the Article 5, Law on Religious Communities and Associations are Roman Catholic, Greek Catholic, Evangelical Lutheran, Evangelical Reformed, Russian Orthodox, Old Believer, Judaist, Sunni Muslim and Karaites. But Muslims could face discrimination due to negative stereotypes perceived from media.

¹⁹² Dr. Ališauskienė Milda, New Religions Research and Information Centre, Vytautas Magnus University, Vilnius, interview 19 August 2013.

the employees. Children in schools also have no possibility to leave the lesson earlier to pray.¹⁹³

The Trade Union of Educators provided an example of a situation when a Catholic teacher turned to the Trade Union due to school's policy to celebrate Pagan festivals (e.g. Mardi Gras). The teacher asked the Trade Union to intervene and mediate so she would not have to celebrate such festivals as they are against her beliefs. After the intervention of the Trade Union, the school administration prevented the teacher from participating in similar types of celebrations.¹⁹⁴ The extent of the unintentional behaviour or unequal treatment is hard to determine due to the lack of official data on this subject.¹⁹⁵

3.6 Economic sectors

Economic sectors that are most prone to labour market discrimination and racism are the ones where most foreigners work, i.e. the shipbuilding industry, the construction sector, international cargo vehicle drivers. The textile and clothing industries should also be noted.¹⁹⁶ Moreover, discrimination occurs more when the person is employed illegally, i.e. both undocumented workers who are not registered for social security and undocumented migrants who do not have the appropriate documentation and right to work in Lithuania, despite the sector.

Discrimination more often occurs in the labour market levels requiring lower skills. This is due to several related reasons. Firstly, migrants, refugees (subsidiary protection receivers) and national minorities work in lower skilled jobs because of their qualifications. Secondly, people have no knowledge about where they can appeal for help. Hence, the possibility of discrimination is greater.

3.7 Geographical areas and relevant actors

Manifestations of labour market discrimination and racism concentrate in larger cities due to a greater number of foreigners residing there. Rural areas tend to be quite exclusive and do not provide opportunities to foreigners to integrate in their communities very easily. There are two regions of Lithuania where specific discrimination takes place: Visaginas, where more than 50% of population are Russian¹⁹⁷ and Vilnius District, which is largely inhabited by the Polish minority¹⁹⁸.

¹⁹³ Zaher Ehab, Bartkevičienė Aistė, Mukauskaitė Ieva, Consultation and Information Centre PLUS, Vilnius, interview 3 September 2013.

¹⁹⁴ Turonis Romas, Lithuanian Education Trade Union, Vilnius, interview 22 August 2013.

¹⁹⁵ Baliko Ewelina, European Foundation for Human Rights, Vilnius, interview 20 August 2013.

¹⁹⁶ Turonis Romas, Lithuanian Education Trade Union, Vilnius, interview 22 August 2013; Posochovas Aleksandras, Lithuanian Service Workers' Trade Union, Vilnius, interview 27 August 2013; Dr. Žibas Karolis, Institute for Ethnic Studies, Vilnius, interview 16 July 2013.

¹⁹⁷ Šliavaitė K., "Etninės mažumos darbo rinkoje: kalbos, pilietybės ir socialinių tinklų reikšmė (Visagino atvejis)", *Ethnicity Studies*, 2012/1-2 (2012), 103-122.

¹⁹⁸ Dr. Pilinkaitė-Sotirovič Vilana, Centre for Equality Advancement, Institute for Ethnic Studies, Vilnius, interview 9 July 2013.

Interviewed experts¹⁹⁹ noted that the tendency is that small and private enterprises are most prone to discriminate in employment. There is no official data provided on this issue.

Employers are responsible for most of the discrimination that is directed towards an employee, but other employees, i.e. colleagues, also sometimes play an important role in the victimisation of workers with an ethnic minority or non-Lithuanian background. There has been no evidence that job agencies cause discrimination.

4. Tackling the challenges

4.1 Public policies

There are no public policies targeting specifically discrimination in the labour market. The problem of discrimination seems to be identified in different policy documents, but there are very few measures foreseen in the national strategies or action plans.

In 2011, the Government adopted the Inter-institutional Action Plan on the Promotion of Anti-discrimination for 2012 – 2014, without involving civil society organisations.²⁰⁰ The policy document identifies discrimination on grounds of, among others, race, ethnicity, religion, convictions and beliefs. It also identifies that there is lack of research on the situation of women belonging to different society groups. Most of the measures in the Action Plan relate to trainings, research and tackling discrimination in all fields. None of the measures foresee combatting discrimination in the labour market specifically.

The Strategy on Development of Ethnic Minority Policy until 2015 was adopted in 2007.²⁰¹ Among others, some of the provisions are directed to fighting discrimination in the labour market, as well as taking positive action in ensuring ethnic minorities have access to the labour market. There was an Action Plan for 2007-2010 prepared and implemented. The new plan for the development of the strategy was not adopted. The responsible institution for the implementation of the strategy was the Department of National Minorities and Lithuanians Living Abroad, which was abolished in 2010. The Ministry of Culture that took over the tasks of the above mentioned department is responsible for the implementation of the strategy, but has not adopted an action plan for the implementation. In order to implement the strategy an action plan has to be prepared with clear strategic steps listed and specific budget allocated for the implementation on it.

The Ethnic Research Institute made an assessment of the policy developments since 2001. Their assessment notes that the tension which existed at the beginning of Independence due to the state language and the tensions between the ethnic majority and minorities are relevant when reasoning the main needs for integration. Research shows that the policies used when establishing the Lithuanian language during the Independence period were quite successful. The second major point noted by the Institute was that most governmental programmes use the understanding of integration as “participation in the majority’s culture

¹⁹⁹ See bibliography.

²⁰⁰ Nėdiskriminavimo skatinimo 2012-2014 metų tarpinstitucinis veiklos planas patvirtintas Lietuvos Respublikos Vyriausybės nutarimu, 2011.

²⁰¹ Tautinių mažumų politikos plėtros iki 2015 metų strategijos įgyvendinimo 2007-2010 metų priemonių planas patvirtintas Lietuvos Respublikos Vyriausybės nutarimu, 2007.

and society” which is contradictory to the understanding of integration set by other legal acts – which is defined as the participation of persons in the State’s political, social, economic and cultural life. It is also contradictory to the Constitutional Court ruling on the definition of the “Lithuanian nation”, where it expresses its opinion that “the Nation that creates the Lithuanian State and has the supreme sovereign powers is composed of civil society, not ethnic majority”²⁰². The Institute’s outcome suggests that this type of reasoning is also used in other policy documents.²⁰³

It is difficult to assess the budget allocated for the implementation of the inter-institutional anti-discrimination Plan, fighting discrimination in the labour market or issues concerning national, ethnic minorities. Nevertheless, it is possible to measure the funding allocated to the Equal Opportunities Ombudsperson – in 2011 – 1256000 LTL, 584000 from them – salaries²⁰⁴. In 2012, the budget allocated increased by 5.2% and was 1325000 LTL, 584000 – salaries,²⁰⁵ in 2013 – 1325000 LTL, 624000 – salaries (the amount allocated to salaries increased by 6.4%).²⁰⁶

Amendments to the Law on Equal Opportunities of Women and Men were made in March 2012, ensuring that discrimination at all stages of employment could be tackled, also setting a term of 10 days for different institutions, legal entities and persons to submit information to the Ombudsperson upon request. The latter rule is important also for the investigation of discrimination complaints as it ensures that they can be handled in a timely manner.²⁰⁷ Moreover, there were also amendments made in October 2012, but they would not have any direct effect on handling the complaints of discrimination in the labour market.

The fate of the Law on National Minorities, which is no longer valid since 1 January 2010, remains unknown. According to the information received from various civil society organisations, the Law was discussed by the National Minorities Council under the Ministry of Culture. Nevertheless, the draft law is neither yet publicly opened for discussions, nor registered in the Parliament of the Republic of Lithuania.

The authors of “Ethnicity studies”²⁰⁸ note that all the policy documents relating to the integration of ethnic minorities are only set by the executive legal acts. “The long lasting conflict between the ethnic majority and ethnic minorities and legal non-existence of ethnic minority integration policies is a proof that this particular field of politics has been

²⁰² Lietuvos Respublikos Konstitucinio Teismo nutarimas dėl teisės aktų, reguliuojančių Lietuvos Respublikos pilietybės santykius nuostatų atitikties Lietuvos Respublikos Konstitucijai, bylos nr. 45/03-36/04, 2006 m. lapkričio 13 d.

²⁰³ Petrušauskaitė Vita, Pilinkaitė Sotirovič Vilana, “Rusai Lietuvoje: etninės grupės raida ir socialinės integracijos iššūkiai 2001-2011 m.”, *Ethnicity Studies*, 2012/1-2 (2012), p.18.

²⁰⁴ Lietuvos Respublikos 2011 metų valstybės biudžeto ir savivaldybių biudžetų finansinių rodiklių patvirtinimo įstatymas, 2010.

²⁰⁵ Lietuvos Respublikos 2012 metų valstybės biudžeto ir savivaldybių biudžetų finansinių rodiklių patvirtinimo įstatymas, 2011.

²⁰⁶ Lietuvos Respublikos 2013 metų valstybės biudžeto ir savivaldybių biudžetų finansinių rodiklių patvirtinimo įstatymas, 2012.

²⁰⁷ Lietuvos Respublikos moterų ir vyrų lygių galimybių įstatymo 2, 3, 6, 25 straipsnių ir priedo pakeitimo ir papildymo, įstatymo papildymo 6¹ straipsniu įstatymas, 2012.

²⁰⁸ <http://ces.lt/en/ethnicity-studies/>

abandoned.”²⁰⁹

Summarising the developments of one ethnic group²¹⁰ in Lithuania and the challenges they face, authors critically evaluate the trends of integration policies of ethnic minorities. In the opinion of V. Petrušauskaitė and V. Pilinkaitė Sotirovič, by seeking to implement the EU migration policy, newly immigrated foreign nationals receive more attention than ethnic minorities who have been residing in Lithuania for a long time, assuming that questions regarding the social integration of ethnic groups are irrelevant for Lithuania and do not require special attention from the state and politicians.²¹¹”

As already written in the ENAR Shadow report on Racism and discrimination in 2011-2012, the Roma Integration to the Lithuanian Society Action Plan 2012-2014 was adopted at the beginning of the 2012, but it does not correspond with the provisions of the EU Communication²¹² and its requirements for structure, aims, financing, monitoring and coordination.²¹³

The migrant integration policy documents can be summarised as comprising of the following strategic documents: the National Economic Migration Regulation Strategy (2007), National Demographic Policy Strategy (2004), the State Long-term Development Strategy, Lithuanian Long-term Strategy for Economic Development up to 2015, National Sustainable Development Strategy (2011), Guidelines for Immigration Politics (2008), etc. There are also various political documents, such as the National Anti-discrimination Programme and the National Programme to combat poverty and social exclusion, etc.

None of the political documents dealing with discrimination in the labour market were adopted in March 2012 – March 2013.

The Minister of Social Affairs adopted the Decision regarding the employment of a foreign national for a job requiring high professional qualifications and its conformity with the needs of the labour market at the end of 2012.²¹⁴ The latter document does not have any provisions relating to the integration of migrants or tackling discrimination.

A new political legal instrument “Conditions and description of the procedure of the issuance of work permits to foreigners”²¹⁵ was introduced, which replaces and updates the previous Regulation. Institutions are about to facilitate work permit validation to highly qualified workers. A draft law is being prepared and the Vice-Minister of the Ministry of Interior has noted that the procedure of issuing residence permits to highly qualified staff

²⁰⁹ Petrušauskaitė V.ita, Pilinkaitė Sotirovič Vilana, “Rusai Lietuvoje: etninės grupės raida ir socialinės integracijos iššūkiai 2001-2011 m.”, *Ethnicity Studies*, 2012/1-2 (2012), p.7-13.

²¹⁰ This report authors are referring to the article “Russians in Lithuania: development of the ethnic group and social challenges in 2001-2011”, *Ibid*.

²¹¹ Šliavaitė Kristina, “Etninės mažumos ir naujieji imigrantai Europos Sąjungos plėtros kontekste: socialiniai iššūkiai ir ateities perspektyvos. PRATARMĖ”, *Ethnicity Studies*, 2012/1-2 (2012), p.7.

²¹² EU Framework for National Roma Integration Strategies up to 2020, COM (2011) 173.

²¹³ Sabatauskaitė Birutė, Urbonaitė Eglė, “Racism and related discriminatory practices in Lithuania”, ENAR Shadow report 2011-2012, Lithuanian Centre for Human Rights, March, 2013, p.13

²¹⁴ Sprendimas dėl užsieniečio aukšto profesinės kvalifikacijos reikalaujančio darbo atitikties Lietuvos Respublikos darbo rinkos poreikiams priėmimo tvarkos aprašas patvirtintas Lietuvos Respublikos socialinės apsaugos ir darbo ministro, 2012.

²¹⁵ Dėl Leidimo dirbti užsieniečiams išdavimo sąlygų ir tvarkos aprašo patvirtinimo, 2013.

would take up to a month.

According to the analysis of the policy documents of the Ethnic Research Institute, the Economic migration regulation strategy (EMRS) sets the implementation of immigration politics and integration measures as political priorities. It states that the EMRS found 8 out of 35 policies include measures tackling immigration for 2007, 4 out of 20 for 2008. Even though integration is declared as a priority, only one measure specifically targets integration: *“Determine priority actions, related to the integration of immigrants from third countries to Lithuanian society and labour market, considering the possibilities given by the ‘European integration fund for third country citizens’.”*²¹⁶

Provisions regarding discrimination in the labour market in the strategic documents mentioned above:

The National Long-term Development Strategy recognises violations of ethnic minorities’ rights as one of the main threats, requiring more attention. It also seeks “to ensure equal opportunities to persons, despite their ethnicity, gender and convictions, to defend their rights and legitimate interests, when seeking to create and implement the national legal aid system” and mentions “that there is a need to coordinate relations between the state and religious communities based on the principle of religious tolerance.”²¹⁷

The National Demographic Policy Strategy states: “Lithuania – is the EU member state with full and equal rights that preserved the Lithuanian national identity. Educated civil society respects universally recognized rights and freedoms of ethnic minorities and foreign nationals residing in the state.”²¹⁸

The National Sustainable Development Strategy (2011) includes the support and protection of fundamental rights as one of the main principles of the strategy and states: “Pay significant attention to people – support their fundamental rights, fight all forms of discrimination, help to reduce poverty, abolish social exclusion.” The concrete objective is set: “Ensure receptive and inclusive labour market, integrate the gender equality and principle of equal opportunities in the employment area.”²¹⁹

As the Migrant Integration Policy Index sums up, “Lithuanian policies make the labour market slightly unattractive to migrant workers who want to integrate long-term. Non-EU temporary migrants do have slightly favourable access to their first job in all sectors except the public sector (as in only 9 other MIPEX countries). But they then face a long, inflexible path to improve their careers, skills and qualifications in Lithuania. Upon arrival, temporary workers are locked into their jobs, without an automatic right to change jobs and sectors for 5 years, until they become long-term residents. If they lose their job, they must technically

²¹⁶ Žibas Karolis, “Migrantų integracijos procesai Lietuvoje: tendencijos ir problematika. „Integra: pirmieji migrantų integravimosi žingsniai naujoje visuomenėje“”, Lietuvos socialinių tyrimų centras, Etninių tyrimų institutas, 2012, Vilnius.

²¹⁷ Lietuvos Respublikos Seimo nutarimas dėl valstybės ilgalaikės strategijos, 2002.

²¹⁸ Nacionalinė demografinės (gyventojų) politikos strategija patvirtinta Lietuvos Respublikos Vyriausybės nutarimu, 2004.

²¹⁹ Nacionalinė darnaus vystymosi strategija patvirtinta Lietuvos Respublikos Vyriausybės nutarimu, 2003, 2009.

leave the country, which means public employment services and targeted measures are partly inaccessible.²²⁰”

In the opinion of respondents interviewed the following views were noted: Anti-discriminatory politics are ineffective. The status of aliens is not fully protected.²²¹ A specific policy on wages is needed, there is no political will. Otherwise, discrimination when paying salaries occurs based on people’s nationality or ethnicity.²²² There is a lack of one department, one mechanism that would concentrate on ethnic minority issues.²²³ The step to abolish the Department on National Minorities and transfer all the issues related to ethnic minorities to the Ministry of Culture has to take into consideration that ethnic minorities most often worry not about culture, but other issues. The ceasing to exist of the Law on Ethnic minorities is negative in political developments, the process of drafting it has been lasting quite long (since 2010 – B.S.).²²⁴

Tensions between Lithuanians and Poles have been noticed in public and these cause competitive friction between Lithuanians and Poles.²²⁵ Politicians both from Lithuania and Poland could have caused most of the tension.²²⁶

4.2 Access to effective remedies

The Lithuanian legal system does not establish a special legal procedure for dealing with discrimination cases. A separate procedure has not been established either for judicial, nor administrative or mediation cases, except the procedure of complaint handling by the Equal Opportunities Ombudsperson, described in part 4.2.2.1.

Therefore, victims of discrimination have to follow the general procedure. The principle of equality established by the Constitution of the Republic of Lithuania is repeated by many different legal acts.

Persons suffering from discrimination at a workplace have a few procedural alternatives. The Labour Code sets the procedure for handling individual labour disputes. According to Article 285 of the Labour Code, an individual labour dispute is “a disagreement between an employee and an employer regarding the implementation of duties and rights set by the labour laws, other legal provisions, work or collective agreement.”²²⁷

If an individual disagreement cannot be handled by having negotiations in the workplace, the individual labour disputes are examined by the:

²²⁰ Imigrantų integracija: naujoji studija vertina ir lygina Lietuvą su kitomis Europos šalimis bei Šiaurės Amerika, Lietuvos socialinių tyrimų centras Etninių tyrimų institutas, 2011.

²²¹ Dr. Žibas Karolis, Institute for Ethnic Studies, Vilnius, interview 16 July 2013.

²²² Gruzdienė Gražina, Lithuanian Trade Union of Food Producers, Vilnius, interview 27 August 2013.

²²³ Vaigė Laima, Mykolas Romeris University, Institute of International and European Union Law, Vilnius, interview 20 August 2013.

²²⁴ Grigolovičienė Danguolė, Equal Opportunities Ombudsperson’s Office, Vilnius, interview 12 July 2013.

²²⁵ Vaigė Laima, Mykolas Romeris University, Institute of International and European Union Law, Vilnius, interview 20 August 2013.

²²⁶ Posochovas Aleksandras, Lithuanian Service Workers’ Trade Union, Vilnius, interview 27 August 2013.

²²⁷ Lietuvos Respublikos darbo kodekso patvirtinimo, įsigaliojimo ir įgyvendinimo įstatymas, 2002.

- 1) Labour Disputes Commission;
- 2) Court.

The Labour Disputes Commission is a compulsory stage of complaint handling, unless the Labour Code or other laws set a different procedure. It is important to note that according to the changes that came into force on January 1st 2013, employee claims relating to a change in the contractual conditions, e.g. salary working duties, will also be subject to the examination by the Labour Disputes Commission as a mandatory pre-court stage, whereas before they were examined only by the Courts.

The Labour Disputes Commission decisions can be appealed by both parties to the court proceedings within one month from the date when the decision was adopted (Article 296). A decision comes into force after the deadline to submit an appeal is over, provided nobody has appealed it (Article 297). The Labour Code sets the exceptions for cases that require urgent execution if the decision, e.g. 1) regarding the award of an unpaid salary of an employee if it does not exceed the average salary of one month; 2) regarding the return of the employee whose contract was unlawfully terminated, who was transferred or dismissed. A person who thinks that they were discriminated against can also complain to the Equal Opportunities Ombudsperson according to the procedures set by the Law on Equal Opportunities of Men and Women and the Law on Equal Treatment (more in chapter 4.2.2.1. of the report).

Theoretically, an opportunity to submit a complaint to the State Labour Inspectorate should exist, practical possibilities to do so are examined in part 4.2.2.²²⁸

“Equal opportunities based on the procedures established in the Labour Code can only be defended regarding the situations that occurred in the labour relations, whereas if a person’s right to equal opportunities was violated in the fields of education, education, goods and services they can only be defended in the courts.”²²⁹ Of course, complaints can be submitted to the Equal Opportunities Ombudsperson as mentioned in parts 2.2. and 4.2.2.1.

4.2.1 Judicial remedies

The fundamental right to justice is enshrined in the Constitution of the Republic of Lithuania, Article 30, part 1: “The person whose constitutional rights or freedoms are violated shall have the right to apply to court.”²³⁰ The equality before the law principle established by the Article 29 of the Constitution can also be defended in courts. The right to defence is also established by the Law on Courts that says “All citizens of the Republic of Lithuania shall have a right to legal defence against attempt on rights and freedoms guaranteed by the Constitution of the Republic of Lithuania and laws, the international treaties ratified by the Republic of Lithuania. They shall have a right to the state guaranteed legal assistance according to the provisions set by law”. The Law also specifies the rights of foreign nationals and stateless persons: they “shall enjoy the same rights to legal defence as the citizens of the Republic of Lithuania unless the laws and international agreements provide otherwise.”

²³¹ Enterprises and organisations shall also be entitled to legal defence.

²²⁸ Article 233, Lietuvos Respublikos administracinių teisės pažeidimų kodekas, 1985.

²²⁹ LGBT teisės Europoje ir Lietuvoje, Equal JUS projekto vadovas teisininkui, 20110430, p.55.

²³⁰ Lietuvos Respublikos Konstitucija, 1992.

²³¹ Article 4, Lietuvos Respublikos teismų įstatymas, 1994.

Labour Code: In case of a labour dispute, a person can take advantage of the procedure established by the Labour Code.

According to Article 27 of the Labour Code, the general time limit for a person to bring a claim is three years. There is no separate term established in cases of discriminatory acts therefore a general term is applicable. Exceptions: this limit is not applied in cases where the employee defends their honour and dignity.

The terms for submitting complaints to the Employments Disputes Commission are discussed in the next chapter.

Sanctions: The Labour Code itself does not provide any sanctions for discrimination in the workplace; these sanctions are established by the Code in Administrative Violations – “a violation of employment laws and normative acts, regulating health and safety at work is punishable by a fine for employers or their authorized representatives of an amount between 500 to 5000 Litass.”²³² The Code also specifies other sanction issues for violation of labour relations.

Civil Procedure – compensation: The Civil Code sets the definition of non-pecuniary damages in Article 6.250, paragraph 1 and paragraph 2 sets the rules when it can be applied: non-pecuniary damages in a civil case can be claimed only in cases prescribed by law,²³³ therefore the right to claim compensation in discrimination cases set by the Law on Equal Treatment is applicable.

A person has the right to bring a civil claim against the employer and request for compensation in the case of discrimination in the workplace.

The possibility to claim compensation was used in the first and so far the only discrimination case on grounds of ethnicity brought to court in Lithuania.²³⁴ At the time of the claim, the rule of shifting the burden of proof in discrimination cases and the right to claim compensation for a breach of the equality principle were not transposed by the Law on Equal Treatment, therefore no discrimination cases were recorded to have existed.

The court ruled in favour of the applicant and awarded her compensation of 2864.98 litas (approximately 830 euros). It also invoked a financial penalty for perpetrators.

Administrative Procedure: The Law on Administrative Procedure states that “a person, as well as other subjects of public administration, including civil servants or municipality public administration servants, officers and leaders of different institutions, who believe that their rights or protected interests were violated can submit a complaint regarding the adopted administrative act or omissions of public administration subject²³⁵”. For most cases, the law sets a compulsory stage of pre-trial investigation following the non-judicial procedure and only after can the complaint be submitted to the administrative court. Complaints have to

²³² Article 41 “A violation of employment Laws and Normative Acts Regulating Health and Safety at Work”, Lietuvos Respublikos administracinių teisės pažeidimų kodekas, 1985.

²³³ Lietuvos Respublikos civilinio kodekso patvirtinimo, įsigaliojimo ir įgyvendinimo įstatymas, 2000.

²³⁴ Vilniaus miesto 2-jo apylinkės teismo sprendimas civilinėje byloje Nr. 2-1189-545/2008, 2008 m. birželio 30 d.

²³⁵ Article 22, Lietuvos Respublikos administracinių bylų teisenos įstatymas, 1999.

be submitted either to the Administrative Disputes Commission or another pre-trial administrative complaint handling body (i.e. State Labour Inspectorate).

Terms: The complaints have to be submitted to the Administrative Disputes Commission within one month after an administrative decision has been announced or an individual receives an individual act to the interested party, or after the announcement of the actions or omissions of an administration (servant) or two months after the non-compliance of the legitimate requirements.²³⁶

According to the Law on Administrative Procedure, issues regarding pecuniary damages in administrative cases are resolved according to the procedures laid down in the Code on the Civil Procedure.

Criminal procedure: There is a possibility to commence a criminal procedure according to Article 169 of the Criminal Code which prohibits discrimination: “A person who carries out the actions aimed at hindering, on grounds of sex, sexual orientation, race, nationality, language, descent, social status, religion, convictions or views, a group of persons or a person belonging thereto to participate on a par with other persons in political, economic, social, cultural, labour or other activities or at restricting the rights and freedoms of such a group of persons or of the person belonging thereto, shall be punished by community service or by a fine or by restriction of liberty or by arrest or by imprisonment for a term of up to three years.”²³⁷

So far there have been very few cases investigated under Article 169. None of them have reached the court. Therefore it is difficult to evaluate whether any pre-trial investigations according to Article 169 were due to discrimination in employment. No legal cases have been found in relation to discrimination in employment on grounds of race, ethnicity, language, nationality or religion.

“In civil or administrative cases, victims of discrimination must rely on general procedures which can be very difficult to apply in discrimination cases. So far, only a few cases that concern discrimination in some way have been brought to court.”²³⁸

One of the notorious cases mentioned in many reports and analysis was brought to the court by a Roma woman with the help of the human rights advocacy NGO – Human Rights Monitoring Institute. The decision was adopted on 30 June, 2008 – S. Marcinkevič v. UAB Disona²³⁹.

Short summary of the case: It is a landmark case where direct discrimination was established for the first time by the court. The case of discrimination against a Roma woman was brought to court at the end of 2007. A Vilnius based human rights advocacy NGO

²³⁶ Article 30, Ibid.

²³⁷ Lietuvos Respublikos baudžiamojo kodekso patvirtinimo ir įsigaliojimo įstatymas, 2000.

²³⁸ Andriukaitis G., European network of legal experts in non-discrimination field, Country Report, 2011, Lithuania, “Report on Measures to Combat Discrimination, Directives 2000/43/EC and 2000/78/EC”, <http://www.non-discrimination.net/countries/lithuania>, accessed 8 August 2013.

²³⁹ Vilniaus apygardos teismo nutartis civilinėje byloje Nr. 2A-1020-464/2008, 2008 m. gruodžio 10 d., <http://liteko.teismai.lt/viesasprendimupaijeska/tekstas.aspx?id=cf19a862-f330-4e1a-beec-011f97683c39>, accessed 8 August 2013.

assisted the Roma woman, by applying the situation testing method to prove that discrimination did actually happen at the recruitment of the woman at a café. A Lithuanian woman of a similar age as the complainant was sent to the cafe a few hours later after the Roma woman had been told that the place is no longer vacant. The Lithuanian woman was immediately accepted. The results from the situation testing were approved by a bailiff and later used in court to successfully challenge discriminatory behaviour.

The NGO took part in the proceedings as a third party in support of the victim, however, an attorney was nevertheless required who directly represented the victim in the legal proceedings. The Equal Opportunities Ombudsperson Institution took part in the proceedings as an expert, providing its finding on the case. The court ruled in favour of the applicant suffering direct discrimination and, in accordance with the Labour Code, awarded her with a compensation of 2,864.98 Litas (approximately 830 Euros).

No other cases of discrimination in the workplace on grounds of race, nationality, ethnicity, language or religions could be identified in the last three years. Nevertheless some of the discrimination cases are shortly presented here as they provide important interpretation and rules applied to discrimination cases.

The burden of proof and collection of evidence: The shift of the burden of proof in cases of discrimination was formally introduced in the Law on Equal Treatment in 2008. The wording of the law repeats the provision (Article 8) of the Council Directive No. 2000/43/EC:

“Where in the course of the hearing of complaints, petitions, applications, notifications or claims of natural or legal persons about discrimination on the grounds of gender, race, nationality, language, origin, social status, belief, convictions or views, age, sexual orientation, disability, ethnic origin or religion before a court or other competent authority, the complainant establishes facts from which it may be presumed that there has been direct or indirect discrimination, it shall be presumed that direct or indirect discrimination, harassment or instruction to discriminate has occurred. The respondent shall have to prove that there has been no breach of the principle of equal treatment.”

There are no other legal acts that specify how the burden of proof is shifted; therefore a lot depends on the interpretation of the Courts. The Code on Civil Procedure does not specify that the burden of proof rests on the respondent. As the report of the European Network of Legal Experts in Non-discrimination states – there was a draft law to include it, but the draft law was dismissed by Parliament members²⁴⁰. The Code of Civil Procedure provides the general rule that the burden of proof falls upon the applicant. As indicated in the case *S. Marcinkevič v. UAB Disona*, the shift of proof was achieved by interpreting other provisions.

The Code on Civil Procedure (Article 182, part 4) states that the parties are not obliged to prove circumstances that have been presumed by law and not proven otherwise. Effectively, it is based on a presumption that it is enough to prove the existence of one fact because the existence of another would be proven automatically. Therefore a party should not prove something that is already presumed by the law, e.g. Law on Equal Treatment, unless these presumptions are proven to be non-existent by the proof provided by the respondent. Therefore, it is recommended to have other methods that would help to support the existing

²⁴⁰ Andriukaitis G., European network of legal experts in non-discrimination field, Country Report, 2011, Lithuania, “Report on Measures to Combat Discrimination, Directives 2000/43/EC and 2000/78/EC”, <http://www.non-discrimination.net/countries/lithuania>, accessed 8 August 2013.

of *prima facie evidence* such as statistics, case testing (applied in the case of S. Marcinkevič v. UAB Disona) or using a questionnaire.²⁴¹

Case No. 3K-3-290/2012, 8th June 2012, Supreme Court of Lithuania, D.V. v. AB "Lietuvos paštas": Even though the case does not consider discrimination on one of the grounds addressed by the report, the Supreme Court of Lithuania elaborated on the burden of proof in this case and sets important standards for it: "In his claim to investigate the conditions related to his discrimination the plaintiff argued based on information that the persons whose contracts were terminated in the company all belonged to specific social groups, that are less favourable in the legal labour relations, such as employees raising underage children, older than 35 years, those taking care of elderly parents, etc., also based on the interview of the former leader of the company, where, according to the plaintiff, he expressed an intent to discriminate in the future their employees because of their age." The Court elaborated that "the plaintiff has indicated the circumstances, that make a sufficient basis to decide whether direct or indirect discrimination was exercised towards him", also commented that was not clear why the first instance court has decided that the plaintiff did not prove the fact of discrimination and said it misplaced the burden of proof.

"The jury noted that the "assurance of the implementation of the constitutional principle of equal opportunities and protection of employees from discrimination in labour relations is a public interest that would violate human rights and legitimate interests when not defended."²⁴²

Case no. 3K-3-598/2012, 21st December, 2012, Supreme Court of Lithuania:
The Supreme Court of Lithuania elaborates on the burden of proof in the cases of indirect discrimination:

A slightly different position is taken by the Supreme Court of Lithuania on the burden of proof and the collection of proof in the case, where the circumstances provided by the plaintiff are considered to be insufficient to form a presumption of existence of indirect discrimination.

"In this case the presumption of existence of indirect discrimination should be the circumstances provided by the appellant – that when the respondent stopped providing free transportation to and from work for the claimant, her position became unequal compared to other employees who were brought to and from work. These circumstances were neither provided to the first instance, the appeal courts, nor to the Supreme Court. The jury noted that the termination of the free transportation to work causing the appellant to leave her children in the care of other persons, was not sufficient by itself enough to hold the presumption of existence of discrimination in this case, since the appellant does not indicate what effect this would have in comparison to her own situation and the situation of the other employees.

²⁴¹ Gumbrevičiūtė-Kuzminskienė Diana, "Įrodymų naštos perkėlimo samprata ir mechanizmas diskriminavimo darbe byloje", *Jurisprudencija, Mokslo darbai*, 2008 8 (110), p.73-82.

²⁴² Lietuvos Respublikos Aukščiausiojo Teismo nutartis civilinėje byloje Nr. 3K-3-290/2012, *D.V. v. AB Lietuvos paštas*, 2012 m. birželio 8 d.

Therefore the jury holds that in this case conditions set by the law were not sufficient to presume that indirect discrimination occurred, and the respondent (employer) does not have a duty to deny it.”²⁴³

The Court did not elaborate what circumstances are held sufficient to presume that indirect discrimination has occurred. In indirect discrimination cases, when prima facie evidence is provided, the duty of the employer would be to prove that the existing condition, even though indirectly discriminatory, is justified.

4.2.2 Non-judicial remedies

Even though the legal mechanism of combating discrimination is thoroughly provided for and praised by the International institutions,²⁴⁴ practically the issue is rather vague.

4.2.2.1 Ombudsman or equality body

The Office of the Equal Opportunities Ombudsperson (The Office/Ombudsperson) acts as an equality body within the State. Its main role in terms of employment is to investigate claims that are related to direct and indirect discrimination on the grounds of gender, race, nationality, language, origin, social status, belief, convictions or views, age, sexual orientation, disability, ethnic origin or religion.²⁴⁵

The Equal Opportunities Ombudsperson is responsible for the implementation of the following legislation: Law on Equal Opportunities of Women and Men and Law on Equal Treatment. The latter guarantees the equality of individuals who have protected characteristics, whereas the previous prohibits gender inequality and sets out the complaint handling procedure.

The Office also performs an informative role. People are free to contact the Ombudsperson in order to get a consultation in relation to direct, indirect discrimination as well as victimisation or harassment. It is noted that citizens are consulted even when the problem solution does not fall within the jurisdiction of the Office. On the other hand, “the complaint handling infrastructure is not always efficient, because people do not know what institution to approach at first instance.”²⁴⁶ It indicates there is a lack of information that is accessible to public. Subsequently this results in the situation where people do not complain due to the confusion that is caused by the governmental mechanism.

In addition, according to the Law on Equal Opportunities of Women and Men, this institution has the capacity to make recommendations to governmental bodies in order to propose

²⁴³ Lietuvos Respublikos Aukščiausiojo Teismo nutartis civilinėje byloje Nr. 3K-3-598/2012, *E.N. v. UAB Vičiūnai ir partneriai*, 21 December 2012.

²⁴⁴ E.g. Concluding observations adopted by the Human Rights Committee at its 105th session on Lithuania, 9-27 July 2012.

²⁴⁵ Law Amending the Law on Equal Treatment, Republic of Lithuanian Law on Equal Treatment, S1, General Provisions, Art. 2.

²⁴⁶ Dr. Pilinkaitė-Sotirovič Vilana, Centre for Equality Advancement, Institute for Ethnic Studies, Vilnius, interview 9 July 2013.

amendments in a piece of legislation.²⁴⁷ 8% of the all investigations led to this outcome in 2012.²⁴⁸ This was illustrated in one of the complaints concerning paternity leave. It was found that discrimination took place because of social status; subsequently the recommendation was made to the Ministry of Social Security and Labour proposing the modification of the existing legislation.²⁴⁹

It is noted that the Ombudsperson provides information to national and regional governmental bodies. The European Law Department receives opinions in relation to discrimination cases that are considered by the Court of Justice of the EU, whereas the Ministry of Social Security and Labour is provided with the information that is necessary for further implementation of equality laws.²⁵⁰

The Ombudsperson is also active in collaborating with national and international NGOs that operate in the Human Rights field.

In terms of legal procedures, the complaint can be made in written form that needs to be delivered to the Ombudsperson by post, fax, email or in person. Alternatively, it may be made by phone.

According to the Law on Equal Opportunities of Women and Men, anonymous complaints are not investigated. However, if there are clear signs of breached equality laws, the Ombudsperson has the capacity to initiate an investigation, if the claim is made within three months from the occurrence of the prohibited conduct.²⁵¹

It needs to be noted that only a person who has been affected directly by the discriminatory policy or less favourable treatment can file the complaint. On the other hand, there is a precedent where an NGO challenged this policy and sued the Ombudsperson itself. The grounds for court proceedings arose when the Ombudsperson suspended an investigation concerning a discriminatory job advertisement because the party that was not affected by it filed the claim. The national court established that where direct discrimination is concerned, the Ombudsperson must initiate an investigation even if a third party, in this case the NGO, made the complaint.²⁵² The decision of the Court was appealed by the Ombudsperson.

According to the Law on Equal Opportunities of Women and Men, the Ombudsperson has the right to make a number of decisions. Firstly, if there are signs of criminal activity, the investigation may be transferred to the public prosecutor, otherwise the Ombudsperson can insist on stopping the prohibited conduct. The Ombudsperson can contact the appropriate individual or institution and require one to suspend the illegal course of action. Where a public body is concerned, the Ombudsperson can demand to cancel the validity of the related Act. Alternatively, the Ombudsperson can warn or penalise the responsible institution by imposing a fine. This possibility is nearly never used.

²⁴⁷ Law Amending the Law on Equal Treatment, Republic of Lithuanian Law on Equal Treatment, S1, General Provisions.

²⁴⁸ *Ibid.* p. 19.

²⁴⁹ *Ibid.* p. 20.

²⁵⁰ *Ibid.* p. 104.

²⁵¹ Law on Equal Opportunities of Women and Men, S20.

²⁵² *Vilniaus Apygardos Administracinis Teismas, Všj Europos žmogaus teisių fondas v. Lygių galimybių kontrolieriaus tarnyba*, Application No. I-1655-643/2013, Judgement of 6 May 2013.

The complaint can be dismissed after its investigation because of lack of evidence or if the complaint is withdrawn. The investigation would also be suspended if both parties choose mediation to solve the issue privately or the discriminatory practice is suspended.²⁵³

It needs to be noted that the Ombudsperson does not represent individuals in legal litigation where the judiciary is involved. The Ombudsperson may be included only as a third party in the litigation proceedings; however, that is not substantial enough to provide sufficient amount of support to the claimant.

All services that are provided by the Ombudsperson are free of charge.

According to the data presented by the Ombudsperson, discrimination on the grounds of race is not common. In the past year there were three investigations concerning racial discrimination, however they did not involve the employment field. Most of the claims were related to discrimination on the grounds of gender, age and social background.

The Ombudsperson notes that it is “particularly difficult to distinguish indirect discrimination, because people do not complain in order to preserve their occupations”.²⁵⁴ In terms of the profiles, the Ombudsperson distinguishes individuals by their gender. “In 2012 there were 55% and 33% of complaints made by women and men respectively. 11% were filed by NGOs”.²⁵⁵

In terms of evidence, the burden of proof shifts to the defendant and it is presumed that discrimination took place, unless it is proven otherwise. According to the Law on Equal Opportunities of Women and Men, the Ombudsperson has the right to ask for relevant information, documentation and other materials that are necessary for the investigation. In addition, the Ombudsperson may require an official explanation from the person who discriminated another individual, which must be submitted within 10 days from the formal request. If necessary information is not provided, the appropriate body or person may face litigation.

However, the main issue arises with time limits, since the standard time lapse for the collection of evidence is one month. Although the Ombudsperson has a right to prolong this term for a maximum of two months in more complicated cases, it is still “insufficient and difficult to collect all the necessary data”.²⁵⁶ At the moment there is a proposition to the Parliament (Seimas) to extend the time limit to three months.

In terms of the publicity, the decision can be publicised only with the official claimant’s agreement, otherwise it is kept private. It also has to be noted that the official internet page of the Ombudsperson has not been renewed since October 2012.²⁵⁷

The vast majority of remedies made in 2012 were recommendations to suspend the prohibited conduct and despite the fact that they are not legally binding, most of the

²⁵³ Ibid. 19.

²⁵⁴ Grigolovičienė Danguolė, Equal Opportunities Ombudsperson’s Office, Vilnius, interview 12 July 2013.

²⁵⁵ Ibid.

²⁵⁶ Ibid.

²⁵⁷ Lygių galimybių kontrolieriaus tarnyba, www.lygybe.lt, accessed 3 October 2013.

practices have followed them. On the other hand, the problem arises with the enforcement of these recommendations against employees. This goes to show that if the employee discriminated, harassed or bullied a colleague, the Ombudsperson can make a recommendation only to the employer in order to stop the discriminatory actions. Subsequently, lack of sanctions against other employees lead to the situation where the responsible individual escapes liability. The example of such a situation happened in 2013 when a woman was abused and bullied by her colleagues because of her foreign-sounding surname. The Ombudsperson recommended that the employer takes measures in order to uphold the equal treatment rules; however, the responsible individuals were not punished.

It has been noted that after exhausting this remedy, the claimant is able to seek for further action in court by referring to the Ombudsperson's decision.²⁵⁸ If that particular individual claims monetary compensation, one must go through the national court, since the Ombudsperson cannot award damages.

The Ombudsperson is an independent body that is funded and elected by the Parliament. Hence, it is directly accountable to this institution.

In terms of its capacity, the Ombudsperson investigated 203 cases related to discrimination in employment and other social fields. The complainants made 189 of them, whereas the other 14 were initiated by the Ombudsperson itself. The abundance of claims arose from the employment sphere. In 2012 there were 78 claims in the latter field, whilst in 2011 were 54.²⁵⁹

In light of this, it can be said that people have begun asserting their rights more actively than before. On the other hand, the Ombudsperson's representative tends to presume that the vast majority of "people are reluctant to make an official complaint even if [The Office] encourages [them] to do so".²⁶⁰ It is believed that the considerably difficult financial situation is preventing individuals from seeking justice on the basis that this may affect their employment relationships and subsequently would result in dismissal.²⁶¹

Another downside is that "The Office is not financed enough. Hence, there is a lack of prevention and <...> monitoring".²⁶² The Ombudsperson's representative states that in order to monitor the situation, another person is required who would conduct such research. Due to lack of funding, the Ombudsperson does not perform its role as efficiently as it could. On the other hand, the representative gave an example where the Ombudsperson found a discriminatory job advertisement; however, no investigation was initiated because the complaint was not filed.

²⁵⁸ Grigolovičienė Danguolė, Equal Opportunities Ombudsperson's Office, Vilnius, interview 12 July 2013.

²⁵⁹ Lygių galimybių kontrolieriaus tarnybos 2012 m. ataskaita, <http://www.lygybe.lt/lt/metines-tarnybos-ataskaitos.html>, accessed 5 August 2013.

²⁶⁰ Grigolovičienė Danguolė, Equal Opportunities Ombudsperson's Office, Vilnius, interview 12 July 2013.

²⁶¹ Lygių galimybių kontrolieriaus tarnybos 2012 m. ataskaita, <http://www.lygybe.lt/lt/metines-tarnybos-ataskaitos.html>, accessed 5 August 2013.

²⁶² Grigolovičienė Danguolė, Equal Opportunities Ombudsperson's Office, Vilnius, interview 12 July 2013.

In 2011, Lithuania's government confirmed an Inter-institutional Non-discrimination Action Plan 2012-2014.²⁶³ The aim of this scheme is to promote equality, increase awareness and tolerance in terms of race, gender, nationality, origin, social background, religion or belief, age, sexual orientation and disability.

It is noted that in preparing this plan, the government took into consideration the Annual Report made by the Ombudsperson. This goes to show that the Ombudsperson has started to play a more significant role in preparing anti-discriminatory programmes. On the other hand, the Ombudsperson is widely criticised by civic society organisations due to the lack of initiative and its poor task performance. Interviewed experts noted that the recommendations in the Annual Report by the Ombudsperson have no significant effect on the structural improvement of the situation.²⁶⁴

Moreover, in practice, a number of recommendations are not being followed, hence the desired amendments are not implemented. This can be observed from bank policies, especially in granting loans. Banks follow laws set up by the government, even though in nature they are discriminatory. "A Russian citizen approached The Office because she was refused the mortgage. Subsequently the recommendation was made, however no significant changes were made."²⁶⁵

In addition, the Ombudsperson works closely with the media. It is considered that publicity helps people to understand principles of discrimination and to recognise it in daily situations. The Ombudsperson organises seminars for media representatives and human rights activists. The aim of these seminars is to find out about the reasons of discrimination and to exchange the information.²⁶⁶

The Ombudsperson has also been producing educational programmes for over ten years. In 2012, the institution prepared projects such as "C.A.F.E. Change Attitude – Aim for Equality"²⁶⁷ and "Systematic Gender Equality Integration in Governance".²⁶⁸ It is noted that the European Commission finances these projects.

In terms of good practices, "in 2012, the Ombudsperson together with a Mayor went to Marijampolė city. As a result, conditions for disabled gypsies were increased significantly".²⁶⁹

4.2.2.2 Mediation or conciliation

Mediation and conciliation is available in the field of employment. The Office of Equal Opportunities Ombudsperson and the State Labour Inspectorate, as well as court mediators approved by the Judicial Council, can provide mediation and conciliation services. The latter mediation by court mediators is made eligible during judicial proceedings for civil cases. The Office of Equal Opportunities Ombudsperson is not an official mediator. Nonetheless, the

²⁶³ Nediskriminavimo skatinimo 2012-2014 metų tarpinstitucinis veiklos planas, No1281, 2 November 2011.

²⁶⁴ Baliko Ewelina, European Foundation for Human Rights, Vilnius, interview 20 August 2013.

²⁶⁵ Grigolovičienė Danguolė, Equal Opportunities Ombudsperson's Office, Vilnius, interview 12 July 2013.

²⁶⁶ Ibid. 103.

²⁶⁷ Europos Bendrijos užimtumo ir socialinio solidarumo PROGRESS programos projektas „C.A.F.E. Keisk požiūrį – siek lygybės“ (sutarties su Europos Komisijos Nr. JUST/2011/PROG/AG/1927).

²⁶⁸ Socialinio solidarumo PROGRESS programos projektas „Sisteminis lyčių lygybės integravimas valstybės valdyme“ (sutarties su Europos Komisijos Nr. VS/2010/0591).

²⁶⁹ Grigolovičienė Danguolė, Equal Opportunities Ombudsperson's Office, Vilnius, interview 12 July 2013.

Office mediates in cases where conciliation may be applied.²⁷⁰ There is no officially accessible data on how many cases the Office did mediate and how many cases were in the field of employment during the reporting period. Trade Unions note that they also participate as unofficial mediators during disputes between the employer and employee.²⁷¹

As from 1 January 2013, the State Labour Inspectorate established operating Labour Disputes Commissions under the local Labour Inspectorates in all ten counties of Lithuania in order to solve labour disputes. Further information on the Commissions will be provided in the next section.

4.2.2.3 Labour inspectorate

The State Labour Inspectorate (SLI) and the Labour Dispute Commissions are quasi-judicial institutions. According to the Law,²⁷² neither SLI nor the Labour Dispute Commissions have a legal basis to enforce administrative sanctions on the grounds of nationality, ethnicity or religious beliefs. SLI controls the implementation of labour laws and legislation on employees' health and security at work. The State Labour Inspectorate does not group the complaints by discrimination on the grounds of gender, age, race, nationality, language, sexual orientation or other grounds.²⁷³ In case a discrimination fact is identified, SLI decides whether to forward it to the Office of Equal Opportunities Ombudsperson. SLI informs that during the reporting period no claims were received concerning discrimination or racism on the ground of nationality, ethnicity, and religious beliefs.²⁷⁴

On 26 June 2012, the Lithuanian Parliament adopted amendments to Section XIX of the Lithuanian Labour Code (the Labour Code), to take effect on 1 January 2013. The procedure for labour disputes has changed with the mandatory pre-court resolution stage having moved from internal company Labour Dispute Commissions to external Labour Dispute Commissions. Pre-court resolution of labour disputes by SLI Commissions is expected to be more effective, thus reducing the workload of the courts, as well as the administrative burden on business.²⁷⁵

SLI Commissions solve individual labour disputes between employer and employee, covering unpaid wages or material damage, disciplinary penalties, refused leave, etc. SLI stresses that SLI Commissions solve labour legal relations disputes, not discrimination cases.²⁷⁶

²⁷⁰ Lygių galimybių kontrolieriaus tarnybos 2012 m. ataskaita, <http://www.lygybe.lt/lt/metines-tarnybos-ataskaitos.html>, accessed 5 August 2013.

²⁷¹ Turonis Romas, Lithuanian Education Trade Union, Vilnius, interview 22 August 2013;

Gruzdienė Gražina, Lithuanian Trade Union of Food Producers, Vilnius, interview 27 August 2013.

²⁷² Law on State Labour Inspectorate of the Republic of Lithuania, 2003.

²⁷³ Dr. Pilinkaitė-Sotirovič Vilana, Centre for Equality Advancement, Institute for Ethnic Studies, Vilnius, interview 9 July.

²⁷⁴ State Labour Inspectorate under the Ministry of Social Security and Labour, Answer No. (25)SD-10827 to the inquiry, 13 August 2013.

²⁷⁵ Lithuanian Employment Newsflash, 8 Aug 2012, Legal news, <http://www.sorainen.com/UserFiles/File/Publications/Newsflash.employment.2012-08-08.eng.html>, accessed 1 October 2013.

²⁷⁶ State Labour Inspectorate under the Ministry of Social Security and Labour, Answer No. (25) SD-10827 to the inquiry, 13 August 2013.

4.3 Civil society initiatives

4.3.1 Trade Unions

The Lithuanian Trade Union Solidarumas reports of one case in 2012 where the union received a request from a foreigner to serve as a mediator in a work-related conflict.²⁷⁷ The Lithuanian Service Workers Trade Unions notes that discrimination cases are fewer in companies with Trade Union representation. Collective agreements and periodic meetings with company executives act as a preventive tool against discrimination in the work place.²⁷⁸ NGO representatives mark that the level of involvement of Trade Unions in the field of discrimination is low. Trade Unions work on economic indicators, discrimination is not in their mandate.

4.3.2 NGOs activities

Experts note that NGOs are one of the strongest actors who bring out the issue and fight discrimination and racism in all Human Rights-related fields. NGOs provide assistance to ethnic minorities, also helping social workers during the “job hunting” process, legal consultations, advocacy, awareness-raising campaigns, action plans, etc. Despite that, the NGOs’ mandate in the decision-making process is nearly irrelevant. Moreover, NGOs’ work tends to be fragmented due to their work taking on a more project-to-project approach. There is no constant and steady flow of income for the activities applied²⁷⁹.

Migrants issues are covered by the Tolerant Youth Association in cooperation with Social-educational initiatives centre PLUS, who implement the on-going project “Consultation and information centre PLUS”. Among other activities, Centre PLUS provides, among others, Lithuanian language courses for Russian speakers and English speakers, services for social workers, services encouraging migrants to participate in the labour market, legal services, services based on business establishment in Lithuania and migration issues assistance. Another centre for migrants operates in Klaipėda, the harbour city of Lithuania and the second largest city in terms of the number of migrants living there.²⁸⁰

The Human Rights Monitoring Institute, Lithuanian Centre for Human Rights and Centre for Equality Advancement are NGOs, working extensively on Human Rights issues, implementing advocacy, establishing dialogue with governmental institutions, working on hate speech. In addition, awareness raising and educational initiatives are covered. These NGOs do not work solely on ethnicity and nationality.

The Roma Community Centre works entirely on Roma community issues. Experts claim the Centre could elaborate more on advocacy and representation of the Roma minority. The Lithuanian Jewish Community covers cultural and social fields.

²⁷⁷ Dr. Pilinkaitė-Sotirovič Vilana, Centre for Equality Advancement, Institute for Ethnic Studies, Vilnius, interview 9 July.

²⁷⁸ Posochovas Aleksandras, Lithuanian Service Workers’ Trade Union, Vilnius, interview 27 August 2013.

²⁷⁹ Siniovas Vladimiras, Mykolas Romeris University, Institute of International and European Union Law, Vilnius, interview 30 July 2013.

²⁸⁰ Klaipėdos migrantų centras, www.facebook.com/Klaipedainfocentre, accessed 3 October 2013.

The New Religions Research and Information Centre works in the field of freedom of religion.

The main issue addressed by Trade Unions is the lack of trust in Trade Unions or NGOs by politicians and employers.²⁸¹ Another peculiarity is the tendency of the governmental institutions to invite NGOs that are favourable to the governing majority.²⁸² No structure is implemented for the dialogue between two parties and a mechanism has yet to be developed and good practices need to be formed. The main Lithuanian NGOs are open to work together with the national government and join the decision-making process.

Despite this, examples of good practice occur yearly. The draft Action Plan for Roma Integration in the Lithuanian Society for 2012-2014 was opened for consultations on 27 February 2012. Seven non-governmental organisations submitted remarks and proposals on 15 March. According to their information, the Plan was passed to the Minister of Culture for signature before analysing remarks.²⁸³ The Action Plan for Roma Integration was adopted on 20 March 2012 and submitted to the European Commission, in accordance with the provisions of the European Commission Communication “The EU Framework for National Roma Integration Strategies up to 2020”.²⁸⁴ Organisations working with Roma community-related issues submitted a resolution on the situation.²⁸⁵ This led to the creation of an initiative by the Ministry of Culture to establish a working group for the monitoring of the Action Plan. The working group consists of representatives from the Education and Science Ministry, Social Security and Labour Ministry, Education Development Centre and Vilnius city municipality. NGOs also participate. So far, two meetings had been organised.²⁸⁶

Dialogue begins when the Ministry administers EU programmes on Human Rights-related issues or has the obligation to consult with civic society. Moreover, NGOs work together with the Office of Equal Opportunities Ombudsperson on common issues. They carry out trainings to public and judiciary officers. Representatives of the Labour Exchange, the State Social Insurance Fund Board under the Ministry of Social Security and Labour, the Centre for Quality Assessment in Higher Education and Ministry of Education visit migrants’ centres where informational seminars for migrants are provided.²⁸⁷

The European Fund for Human Rights initiated and released a brochure in four languages on discrimination in employment. It is disseminated in smaller towns of Lithuania to national minorities.²⁸⁸

²⁸¹ Posochovas Aleksandras, Lithuanian Service Workers’ Trade Union, Vilnius, interview 27 August 2013.

²⁸² Dr. Pilinkaitė-Sotirovič Vilana, Centre for Equality Advancement, Institute for Ethnic Studies, Vilnius, interview 9 July 2013.

²⁸³ Sabatauskaitė B., Urbonaitė E., *Racism and related discriminatory practices in Lithuania*, ENAR, 2012.

²⁸⁴ EU Framework for National Roma Integration Strategies up to 2020, COM (2011) 173.

²⁸⁵ Resolution of Roma organisations and non-governmental organisations working with Roma regarding the Roma integration strategy in Lithuania, 21 March 2012, Vilnius.

²⁸⁶ 11 April 2012 and 11 September 2012.

²⁸⁷ Zaher Ehab, Bartkevičienė Aistė, Mukauskaitė Ieva, Consultation and Information Centre PLUS, Vilnius, interview 3 September 2013.

²⁸⁸ Baliko Ewelina, European Foundation for Human Rights, Vilnius, interview 20 August 2013.

The concluding remarks of the study on the biggest national minority (Polish, Russian and Belarusian) organisations state that the existing national minorities' organisations have no contact with newly arrived members of the same ethnic group (Ukraine, Belarus or Russia). New organisations that would unite newly arrived same national minorities do not exist. Muslims rally through their religious community. Newly arrived Muslims (Pakistani, Egyptians) gather in small unofficial groups. Thailand, Japan and China's citizens communicate mainly through the embassy or unofficial community leaders.²⁸⁹

Experts note that ethnic minority organisations are closed, propagate the cultural and traditional issues, but not human rights and civic affairs. The situation is better than 10 years ago. Despite that, women's rights, disabled rights and others are not represented.²⁹⁰ The European Fund for Human Rights is a good example of an NGO, which represents Polish and Russian national minorities. The Fund, among other activities, consults and represents victims in court.²⁹¹

4.3.3 Employers' organisations

A Network of socially responsible companies was registered in 2013. The National Network, uniting business companies, exclusively and voluntarily belongs under the United Nations initiative « Global compact ». The main mission of the Network is to promote the development of responsible business in Lithuania as one of the sustainable development conditions. Companies united by this network have the possibility of exchanging knowledge, experience and innovations, implementing common trainings, implementing projects valuable for society and contributing to the sustainable development.²⁹²

The Lithuanian Business Confederation was interviewed and they did not mention any positive practices of the organisation tackling discrimination in the labour market. Other organisations did not respond to the request for interview.²⁹³

4.3.4 Other civil society initiatives

The Human Rights Documentary Film Festival "Inconvenient Films" is an example of a positive action carried out by the civil society organisation Lithuanian Centre for Human Rights. An annual documentary film festival was established in 2007. The mission of this non-profit initiative is to raise awareness of human rights issues around the world and to connect them to those that are present in Lithuania. This year's focus covers discrimination in the labour market. By presenting various documentaries on the main human rights topics, inviting filmmakers and activists from all over the world, organisers encourage public debates on human rights issues and ways to solve them.

²⁸⁹ Beresnevičiūtė V., Leončikas T., Žibas K., "Migrantų gyvenimas Lietuvoje: visuomenės nuostatos ir migrantų patirtys", *Ethnicity Studies*, 2009/02 (2009), 77-110.

²⁹⁰ Dr. Pilinkaitė-Sotirovič Vilana, Centre for Equality Advancement, Institute for Ethnic Studies, Vilnius, interview 9 July 2013.

²⁹¹ Baliko Ewelina, European Foundation for Human Rights, Vilnius, interview 20 August 2013.

²⁹² Information from the website of Ministry of Social affairs and Labour of the Republic of Lithuania, <http://www.socmin.lt/index.php?-1366456457>, accessed 23 September, 2013.

²⁹³ Lukošiuūtė Kristina, Lithuanian Business Confederation, interview 17 September 2013.

Despite the project's social mission and non-commercial character, "Inconvenient Films" is one of the most popular and most visited film festivals in Lithuania. "Inconvenient Films" is so far the only film festival of such profile in the Baltic States. More than 60 000 viewers visited the festival's educational screenings since its foundation. Festival organisers aim to broaden its audience and draw attention to social challenges, global and local human rights issues. It is a space for free thought, sincere discussions about subjects, which really matter. All films are subtitled in both English and Lithuanian.²⁹⁴

4.4 Individual employers' initiatives

Individual employers develop good practices. The Lithuanian Business Confederation did not specify any special procedures to tackle discrimination complaints and indicated that the biggest role when handling complaints is given to human resources specialists. The person or department responsible for human resources firstly handles most of the complaints. Discrimination does not seem to be widespread enough for employers to want to tackle it. Mostly it covers the prevention of discrimination through the promotion of communication, team-building, corporate collective events.²⁹⁵

Most respondents mentioned that good practices to tackle discrimination are developed in big companies, especially those with foreign capital. Many companies have internal websites where people can express their positions. They try to establish internal webs to communicate about the existing problems, and this system can be found in Omnitel, Statoil, GF and Maxima.²⁹⁶ They also have developed social responsibility policies, social policy departments and codes of ethics.²⁹⁷

Trade unions criticise the understanding of social responsibility and the code of ethics among companies in Lithuania. "Most of these companies are Scandinavian, in Lithuania they play with the social responsibility, have a social responsibility policy, but people are officially employed for a minimum wage and receive a bonus every month. If they complain about discrimination, they lose their bonus."²⁹⁸ Codes of ethics adopted by different companies can be valued as very good instruments. Unfortunately, nobody reads them. Nonetheless, Trade Unions use them in cases when needed and there are very progressive rules transposed from codes of ethics of international companies.²⁹⁹

There was an example of a case where an employer tried to employ refugees. There are some companies where mostly migrants are employed.³⁰⁰

²⁹⁴ Inconvenient Films Festival, <http://www.nepatoguskinas.lt/en/website/about-festival>, accessed 3 October 2013.

²⁹⁵ Lukošūtė Kristina, Lithuanian Business Confederation, interview 17 September 2013.

²⁹⁶ Posochovas Aleksandras, Lithuanian Service Workers' Trade Union, Vilnius, interview 27 August 2013.

²⁹⁷ Vaigė Laima, Mykolas Romeris University, Institute of International and European Union Law, Vilnius, interview 20 August 2013.

²⁹⁸ Posochovas Aleksandras, Lithuanian Service Workers' Trade Union, Vilnius, interview 27 August 2013.

²⁹⁹ Gruzdienė Gražina, Lithuanian Trade Union of Food Producers, Vilnius, interview 27 August 2013.

³⁰⁰ Dr. Žibas Karolis, Institute for Ethnic Studies, Vilnius, interview 16 July 2013.

5. Conclusions and recommendations

5.1 Political and societal developments related to racism and discrimination

During the reporting period, the implementation of the newly adopted National Anti-Discrimination Action Plan had begun. The Action Plan identifies that discrimination on grounds of race, ethnicity, religion, convictions and beliefs exists. It also identifies the lack of research on the situation of women belonging to different society groups. Most of the measures in the Action Plan relate to training, research and tackling discrimination in all fields. None of the measures foresees combating discrimination in the labour market specifically. The Roma Integration to the Lithuanian Society Action Plan 2012-2014 was also adopted. However, there is still a lack of political will to involve the civil society in drafting governmental policies and strategic plans, as well as lack of funds for the implementation of integration plans.

In the Action Plan for Roma integration in Lithuanian society for 2012-2014, higher participation of Roma in the job market is aimed to be achieved by the sharing of information about vacant jobs and for the funding of competitive projects of Roma employment. The Roma and NGOs working with Roma point out that the measures foreseen in the Action Plan to promote the inclusion of Roma in the job market are not sufficient enough and do not take into account the complex Roma situation.

In 2013, an important change was made to the Law on Equal Opportunities. Article 5 of the Law was supplemented by the principle that State and municipality institutions, among others, are obliged to ensure equal opportunities in their strategic planning documents. Municipal institutions will ensure means for equal opportunities in municipal strategic development and/or municipal strategic Action Plan. The Law enters into force from 1 October 2014.

Amendments to the Law on Equal Opportunities of Women and Men were made in March 2012, ensuring that discrimination at all stages of employment could be tackled. In addition, it set a term of 10 days for different institutions, legal entities and persons to submit information to the Ombudsperson upon request. The latter rule is also important for the investigation of discrimination complaints as it ensures that they may be handled in a timely manner.

The Minister of Social Affairs adopted the Decision regarding the employment of a foreign national for a job requiring high professional qualifications and its conformity with the needs of the labour market at the end of 2012. A new political legal instrument "Conditions and description of the procedure of the issuance of work permits to foreigners" was introduced which replaces the previous version of the same regulation. Institutions are about to facilitate work permit validation to highly qualified workers.

However, despite this, governmental institutions are increasingly trying to involve civil society organisations to work on discrimination issues. Non-governmental organisations are increasingly cooperating by communicating with institutions and by organising public action.

5.2 Conclusions and recommendations

The area of anti-discrimination and anti-racism in employment has not been fully covered by legislation. Political instruments and mechanisms need to be developed and implemented. In the light of no disaggregated data or no recently updated data, research on discrimination and racism of migrant and national minorities in employment, including women, needs to be conducted.

Unnecessary requirements for a certain level of knowledge of Lithuanian and negative stereotyping about ethnic groups have caused ethnic minorities great difficulties.

The authors' recommendations are as follows:

- Fully transpose the provisions of the 2000/43/EC and 2000/78/EC Directives.
- Adopt a new Law on National Minorities, as the old one ceased to exist since 2010.
- Amend the Law on the Office of Equal Opportunities Ombudsperson in order to provide that the Office assists and legally represents victims of discrimination in court.
- Authorities should adopt the draft law, which extends access to social security to persons granted subsidiary protection as soon as possible.
- The State should ensure the right of migrant workers to receive a fair wage through monitoring the implementation of existing legal acts.
- Institutions representing national minorities should be established on a State level.
- Permanent monitoring system of introduced programmes and support mechanisms should be developed by the State (not project-based support) to ensure the assistance for the long-term unemployed persons, as almost a half of the unemployed minorities faced long-term unemployment³⁰¹.
- Continuous programmes for the integration of migrant workers should be actively implemented and accordingly updated. E.g. of programmes: National Demographic Policy Strategy (2004), the National Economic Migration Regulation Strategy (2007), Guidelines for Immigration Politics (2008), National Sustainable Development Strategy (2011), the State Long-term Development Strategy, Lithuanian Long-term Strategy for Economic Development up to 2015, etc.
- Sufficient funding must be allocated to the integration and anti-discrimination programmes in order to implement them effectively. E.g. of programmes: the Roma Integration to the Lithuanian Society Action Plan 2012-2014, Inter-institutional action plan for promoting non-discrimination for 2012-2014, etc.
- Law on Equal Treatment provides that State and municipality institutions must implement documents to guarantee equal opportunities. Policy measures should be created to ensure equal opportunities and prevention of discrimination in the labour market in all sectors.
- The Equal Opportunities Ombudsperson must take measures to protect victims of discrimination and assist them in filing complaints against their perpetrators.
- Research on migrant and ethnic minority women in the labour market should be carried out by the state funded research institutes, including discrimination, racism in access to employment and at the workplace.
- Research on national minorities and migrant workers in employment and their situation in different economic sectors should be carried out.
- Requirements that are unnecessary for job position (e.g. citizenship, language proficiency, etc.) should be challenged and re-evaluated. High occupational levels should be accessible to non-EU nationals.
- To organise state funded awareness-raising campaigns, training courses for employers in order to reduce their negative approach and stereotypical views towards ethnic minority groups.
- To provide supported employment and individual support to increase the employability of ethnic minorities.

³⁰¹ Blaziene I., Gruzevskis B, 'Lithuania: EWCO CAR on Working conditions of nationals with a foreign background', Institute of Labour and Social Research, 2011.

- An inter-institutional body on Roma issues should be set-up with a view to coordinate the action of the authorities responsible for the implementation of the Roma integration programmes. Authorities should guarantee adequate funds for the Roma Integration Programme.
- The State should broadly consult with civil society and non-governmental organisations when making decisions that affect socially vulnerable groups.
- Public policies on the integration of ethnic minorities and migrants (including their integration in the labour market) and combating of discrimination should be in line with the participation of ethnic minorities in the State's political, social, economic and cultural life.
- Strong institutional cooperation and sufficient funding for the systematic implementation of policies is recommended. Consider re-introducing the Department of National Minorities and Lithuanians Living Abroad.
- Ratify the Convention of Migrant Workers as recommended in the Human Rights NGOs' meeting with the Government³⁰² after Lithuania went through the Universal Periodic Review procedure at the UN Human Rights Council on 11 October 2011.
- Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) as recommended in CERD concluding remarks on Lithuania³⁰³.

³⁰² First meeting after Lithuania was reviewed in UN Human Rights Council was held on 16 April 2012, second meeting was held in the Ministry of Justice of the Republic of Lithuania on 19 April 2013. Both meetings were initiated by the Human Rights Coalition (Coalition of NGOs working in Human Rights field).

³⁰³ Committee on the Elimination of Racial Discrimination, Seventy-eighth session, CERD/C/LTU/CO/4-5, 14 February – 11 March 2011, p.5

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