



# Lithuania

## Country report for use in Canadian refugee claims based on persecution on the basis of sexual orientation or gender identity

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By: Sexual Orientation and Gender Identity Working Group

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### I. Introduction

Surveys consistently show that Lithuania is one of the least LGBT-friendly countries in Europe: 68.9% of Lithuanians do not want LGBT individuals to work in schools; 62% would not want to be a member of an organization that accepted LGBT members; and 47% think that homosexuality should be treated medically.<sup>1</sup>

The Lithuanian legal system is ambivalent towards LGBT individuals. Same-sex sexual activity was legalized 1993 and, in 2005, the government enacted anti-discrimination legislation as part of its bid to enter the European Union. However, it is unclear if this legislation is effective in protecting the LGBT community. Further, the government has ignored a 2007 directive of the European Court of Human Rights in *L v. Lithuania*, which required the Government to create a legal process for individuals to change their gender. Moreover, Lithuanian censorship laws prevent an open discussion of LGBT issues in the media and in public spaces. LGBT issues are effectively restricted to the private realm.

Lithuania’s political institutions reflect its homophobic attitudes. Many politicians, including members of the governing party, take advantage of anti-LGBT sentiments by proposing

<sup>1</sup> [http://fra.europa.eu/sites/default/files/fra\\_uploads/382-FRA-hdgso-part2-NR\\_LT.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/382-FRA-hdgso-part2-NR_LT.pdf)  
<http://ihrp.law.utoronto.ca/>



legislation and constitutional amendments that would dramatically restrict LGBT rights. The Lithuanian Parliament has passed few of these proposals, though it is worth noting most of these proposals attained a plurality – but not a majority – of votes in the legislature.

Politicians have heavily resisted the hosting of pride parades in Lithuania, citing security issues. However, Lithuanian courts have allowed a few pride parades to go forward, the first occurring in 2010. Pride parades continue to be heavily criticized by politicians and are subject to frequent disruption by protestors.

Generally, the Lithuanian media presents LGBT people negatively. LGBT individuals are portrayed as morally degenerate, sexually promiscuous, and the object of ridicule.

The inclusion of Lithuania on Canada's Designated Country of Origin (DCO) list is problematic in light of this situation. The formal availability of anti-discrimination provisions and lack of overt criminalization of homosexual activity disguises the actual situation of LGBT Lithuanians and the low probability they will want to avail themselves of state protection. It is unclear whether the Law on Protection of Minors against Detrimental Effects of Information is a strong enough discriminatory provision to rebut the presumption of state protection.

## II. Legislation

1. *Constitution of the Republic of Lithuania*, (October 1992), online:

Online: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=21892](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=21892)

- **Article 38 of the constitution defines marriage as a union between a man and a woman.**

**Article 38:** Marriage shall be entered into upon the free consent of man and woman.

2. *Civil Code of the Republic of Lithuania* (July 2000)

Online: [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=202048](http://www.wipo.int/wipolex/en/text.jsp?file_id=202048)

- **Article 2.27 provides that an unmarried person has the right to change his or her designation of sex as “prescribed by law.”**
- **Article 3.7 restricts marriage to opposite-sex couples.**

**Article 2.27:** Right to the Change of the Designation of Sex

1. An unmarried natural person of full age enjoys the right to the change of “designation of sex” in cases when it is feasible from the medical point of view. The application to the given effect shall have to be made in writing.



2. The conditions and the procedure for the change of designation of sex shall be prescribed by law.

### **Article 3.7:** Concept of marriage

1. Marriage is a voluntary agreement between a man and a woman to create legal family relations executed in the procedure provided for by law.

**\*Note:** Since the Civil Code came into force in 2001 no subsequent law has been passed to create a legal process by which persons can change their gender. Transgender persons have to apply to national courts to change their identity documents. In the case of *L v. Lithuania*, the European Court of Human Rights stated that Lithuania's failure to adopt a law on gender reassignment surgery violated transgendered persons' right to private life. The Court ordered the Lithuanian Government to establish an effective procedure of legal gender recognition within three months. No progress has been made. Recently, the Lithuanian Parliament considered a bill to create a public registry through which residents could submit inquiries and fill in forms to legally change their gender. However, the bill was blocked. 27 MPs voted in favour of the bill, 18 MPs against, and 39 abstained.<sup>2</sup>

### 3. *Penal Code of the Republic of Lithuania* (2010)

**Online:** [http://www.ecoi.net/local\\_link/186222/303861\\_de.html](http://www.ecoi.net/local_link/186222/303861_de.html)

- **Same-sex sexual conduct was decriminalized in 1993. The country does not have an age of consent for same-sex or opposite-sex acts.**
- **Article 60 (12) makes it an aggravating circumstance if a crime has been committed in order to express hatred towards a group on grounds including sexual orientation, but excluding gender identity.**
- **Article 129 (13) raises the penalty from 7-15 to 8-20 years for committing murder if it is done in order to express hatred towards a person because of sexual orientation.**
- **Article 170 (2) is the criminal offence of inciting hatred, which includes hate speech and inciting physical violence.**

**Article 60:** The following shall be considered as aggravating circumstances:

...

- 12) the act has been committed in order to express hatred towards a group of persons or a person belonging thereto on grounds of age, sex, sexual orientation, disability, race, nationality, language, descent, social status, religion, convictions or views.

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<sup>2</sup> [http://www.ilga-europe.org/home/guide\\_europe/country\\_by\\_country/lithuania/Lithuanian-Parliament-Refuses-to-Consider-a-Bill-Establishing-Procedure-of-Legal-Gender-Recognition](http://www.ilga-europe.org/home/guide_europe/country_by_country/lithuania/Lithuanian-Parliament-Refuses-to-Consider-a-Bill-Establishing-Procedure-of-Legal-Gender-Recognition)



**Article 129: Murder**

- 2) A person who murders
- ...
- 13) in order to express hatred towards a group of persons or a person belonging thereto on grounds of age, sex, sexual orientation, disability, race, nationality, language, descent, social status, religion, convictions or views

**Article 170: Incitement Against Any National, Racial, Ethnic, Religious or Other group.**

1. A person who, for the purposes of distribution, produces, acquires, sends, transports or stores the items ridiculing, expressing contempt for, urging hatred of or inciting discrimination against a group of persons or a person belonging thereto on grounds of sex, sexual orientation ..., a physical violent treatment of such a group of persons or the person belonging thereto or distributes them shall be punished by a fine or by restriction of liberty or by arrest or by imprisonment for a term of up to one year.
  2. A person who publicly ridicules, expresses contempt for, urges hatred of or incites discrimination against a group of persons or a person belonging thereto on grounds of sex, sexual orientation ... shall be punished by a fine or by restriction of liberty or by arrest or by imprisonment for a term of up to two years.
  3. A person who publicly incites violence or a physical violent treatment of a group of persons or a person belonging thereto on grounds of sex, sexual orientation, ... or finances or otherwise supports such activities shall be punished by a fine or by restriction of liberty or by arrest or by imprisonment for a term of up to three years.
4. *Law on Equal Treatment, 2005*  
**Online:** [http://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---ilo\\_aids/documents/legaldocument/wcms\\_127927.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_127927.pdf)

- **The Law on Equal Treatment guarantees protection for Lithuanian citizens from discrimination on the basis of sexual orientation. The legislation compels state and local governmental actors to ensure equality in all their legislation; educational institutions to ensure equal treatment; employers not to discriminate in pay or treatment on the grounds of sexual orientation; and, equality in access to goods and services. Note that the legislation provides no basis for social protection.**
- **There is little evidence of the law's actual operations and enforcement for those discriminated against on the basis of sexual orientation.**

**Article 2:**

1. Equal treatment means implementation of the human rights, which are laid down in international documents on human and citizens' rights and in the laws of the Republic of Lithuania, regardless of age, sexual orientation, disability, racial or ethnic



origin, religion, beliefs and other grounds established in the international agreements or laws of the Republic of Lithuania.

2. Violation of equal treatment means direct or indirect discrimination on grounds of age, sexual orientation, disability, racial or ethnic origin, religion or beliefs.
3. Direct discrimination shall be taken to occur when on the basis of a person's age, sexual orientation, disability, racial or ethnic origin, religion or beliefs, one person is treated less favourably than another is, has been or would be treated in an comparable situation, except for the following cases provided for by the laws:
  - 1) restrictions on grounds of age;
  - 2) requirement to know the State language;
  - 3) prohibition from taking part in political activities;
  - 4) different rights applied on the basis of citizenship;
  - 5) special measure applied in healthcare, work safety, employment, labour market sphere while striving to create and apply conditions and opportunities guaranteeing and promoting the integration of the disabled into the labour environment;
  - 6) special temporary measures applied while striving to ensure equality and bar the way to violation of equal treatment on the basis of age, sexual orientation, disability, racial ethnic, religion, or beliefs;
  - 7) when owing to the character of specific types of professional activity or conditions of implementation thereof, a certain human characteristic is the usual and decisive professional requirement, and this aim is lawful and the requirement is appropriate.
4. Indirect discrimination shall be taken to occur where an action or inaction, legal norm or value criterion, visibly neutral provision or practice, which are formally equal, however in implementing or adapting them, an actual restriction of the use of rights or the providing of privileges, priority or advantage for persons of a certain age, certain sexual orientation, disability, racial or ethnic origin, religion or beliefs can, do, or might emerge.
5. Harassment shall be deemed to be undesirable conduct (discrimination), when on the basis of age, sexual orientation, disability, racial or ethnic origin, religion or beliefs one strives to violate or violates the dignity of a person and strives to create or creates an intimidating, hostile and degrading or offensive environment.

### **Article 3: Duty of State and Local Government Institutions and Agencies to Implement Equal Treatment**



State and local government institutions and agencies must within the scope of their competence:

- 1) ensure that in all the legal acts, drafted and passed by them, equal rights and treatment would be laid down without regard of age, sexual orientation, disability, racial or ethnic origin religion or beliefs;
- 2) draft and implement the programmes and measures, designated for ensuring equal treatment regardless of age, sexual orientation, disability, racial or ethnic origin, religion or beliefs.
- 3) In the manner prescribed by the laws by the laws, provide assistance to the programmes of religious communities, associations and centres, other non-government organisations, public agencies and charity and sponsorship foundations, which assist in the implementation of equal treatment of persons without regard to their age, sexual orientation, disability, racial or ethnic origin, religion or beliefs.

**Article 4: Duty of Educational Institutions, Science and Academic Institutions to Implement Equal Treatment**

1. Educational institutions, science and academic institutions must ensure equal conditions for persons regardless of their age, sexual orientation, disability, racial or ethnic origin, religion or beliefs when:
  - 1) admitting to schools of general education, vocational institutions, college level and university schools and refresher, retraining and other courses;
  - 2) awarding study grants and providing loans for studies;
  - 3) drawing up, drafting, approving and also, selecting curricula;
  - 4) assessing knowledge.

**Article 5: Duty of Employer to Implement Equal Treatment at Work, in Public Service**

When implementing equal treatment the employer, regardless of the person's age, sexual orientation, disability, racial or ethnic origin, religion or beliefs, must:

- 1) apply equal recruitment criteria and employment conditions when employing or recruiting to the public service except in the cases set forth in sub-paragraphs 1,2,3,4 and 5 of paragraph 3 of Article 2 of this Law;
- 2) provide equal working and public service conditions, opportunities to improve qualifications, seek more advanced vocational training, be retrained, acquire practical work experience and grant equal benefits;



- 3) use equal criteria in evaluating work and the performance of public officers;
- 4) apply evaluation criteria of dismissal from work and from public service;
- 5) provide equal pay for equal work or work of equal value;
- 6) take measures to prevent harassment of an employee or a public servant;
- 7) take measures to prevent sexual harassment of an employee or public servant;
- 8) take measures to prevent persecution of or an employee or public servant, who filed a complaint on discrimination to be protect him from hostile behaviour and negative consequences;
- 9) take appropriate measures to provide conditions for the disabled to obtain work, to work, to a career or to study, provided that the duties of the employer would not be disproportionately burdened as a result.

5. *Law on Protection of Minors Against Detrimental Effect of Public Information* (2009)

Online: <https://iglhrc.org/sites/default/files/319-1.pdf>

- **This law prohibits the portrayal of someone mocked or humiliated due to their sexual orientation, but also prohibits the publication of information that advocates or depicts homosexual or bisexual relations that may be accessible to minors – for example in schools, the media, or public spaces.**
- **The law effectively applies to all media, websites, pamphlets or public events addressing LGBT issues.**
- **It has been condemned internationally for institutionalizing homophobia and discrimination based on sexual orientation**

**Article 4 (1):** Public information having a detrimental effect on the mental health, physical, intellectual or moral development of minors shall be considered the information:

...

- 12) in which a person is mocked at or humiliated on grounds of nationality, race, sex, origin, disability, sexual orientation, social status, language, religion, beliefs or views; ...
- 14) whereby homosexual, bisexual or polygamous relations are promoted; ...

**\*Note:** The original draft of the law explained that “the propagation of a non-traditional sexual orientation and exposure to information containing positive coverage of homosexual relations may therefore cause negative consequences for the physical, mental and, first and foremost,





moral development of minors.”<sup>3</sup>

6. *Proposed Legislation (2009-2014)*

**Online:** <http://www.pinknews.co.uk/2013/09/11/lithuania-parliament-to-consider-five-separate-anti-gay-and-anti-trans-bills/>

- Numerous anti-gay bills have been proposed in the Lithuanian parliament in the law few years. In 2014, five bills were proposed that would:
  1. ban all transgender therapy and surgery;
  2. ban same-sex adoption;
  3. make organizers of public events (such as pride marches) liable to administrative charges and fines for the “public denigration of constitutional moral values”;
  4. require the organizers of public events to pay the expenses to ensure the “safety and order” of the public; and
  5. legalize hate crimes directed at LGBT groups and individuals.
- All five bills were rejected by narrow margins. More legislators voted in favour of the bills than against them, but a sizable quantity of MPs abstained so the votes did not reach the required minimum threshold of votes.<sup>4</sup>

<b>III. Canadian Jurisprudence</b>
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***Immigration and Refugee Board of Canada Decisions***

1. *U.E.T. (Re)*, [2000] CRDD No. 66

**Holding: Refugee claim denied**

- Factual inconsistencies found between claimant’s oral testimony of alleged ill treatment and his Personal Information Form.
- Claimant’s experiences of harm did not amount to serious harm of persecution.
- This case involved an Estonian refugee. However, the Court based its judgement on information it had on LGBT rights in Lithuania because information on Lithuania was more readily available.

Claimant alleged that he was forced to hide his sexual orientation in order to gain employment. Claimant alleged that when his coworkers discovered his sexual orientation, their treatment of

<sup>3</sup> <http://visegradinsight.eu/on-the-right-path24112014/>

<sup>4</sup> <http://www.workersliberty.org/story/2014/03/26/lithuania-anti-lgbt-laws-blocked>



him and attitudes towards him were so unbearable that he had to resign. He testified that he would be unable to get employment in his chosen profession in Estonia. Panel concludes that this evidence of restricted employment options amounts to discrimination, but not persecution.

Claimant also alleged that he suffered verbal harassment and eviction from his landlord on the basis of his sexual orientation. In February 1998, three people approached the claimant outside a gay bar in Tallinn, and shouted slurs at him. The claimant testified that he was punched in the face. The panel found that this incident was isolated, and not reflective of repeated and persistent acts of physical threat or harm.

To qualify as a Convention refugee, the claimant did not necessarily have to suffer persecution himself—he could have demonstrated the persecution of similarly situated people. Claimant testified that two of his friends had been attacked on the basis of their sexual orientation, and that one of them had been killed. The panel found that because this information was third hand, and lacked supporting documentation, it was unsatisfactory.

No other relevant reported Canadian court or tribunal jurisprudence was found. Sources investigated include:

1. LexisNexis Quicklaw

Tribunal Cases, Immigration and Refugee Board Decision

Search terms: Lithuania AND LGBT OR gay OR lesbian OR bisexual! OR homosexual! OR sexual orientation OR sexual identity

Court Cases, Federal Court of Canada, Group Source

Search terms: Lithuania! AND LGBT OR gay OR lesbian OR bisexual! OR homosexual! OR sexual orientation OR sexual identity

2. The Michigan-Melbourne Refugee Caselaw Site - [www.refugeecaselaw.org](http://www.refugeecaselaw.org)  
Search terms: Lithuania

#### **IV. Domestic Jurisprudence**

No official English language legal sources from Lithuania could be found. The following news articles report on lower court rulings that have affected LGBT rights:

1. “Court says gay students kissing each other is ‘eccentric behaviour,’ Joseph Patrick McCormick, PinkNews, 20 January 2015.



Online: <http://www.pinknews.co.uk/2015/01/30/court-says-gay-students-kissing-each-other-is-eccentric-behaviour/>

- The District Court of Klaipeda City dismissed a complaint made by LGBT rights organization LGL on behalf of students who posted a photo to Facebook of them kissing. After the photo was posted, the students received a barrage of violent threats. The Lithuanian Gay League alleged that those threats violated the Criminal Code of Lithuania, as well as the Law on Provision of Information to the Public.
- The court ruled that anyone who posts a gay kiss photo on social media publicly “has to anticipate that such an eccentric act would clearly discourage the common understanding and tolerance amongst people in our society who have different views and opinions ... A person who publishes private information on a social network, practices the freedom of expression, has to take into account the fact that freedom is inseparable from the obligation to respect other people’s beliefs and traditions.”

2. “Baltic Pride 2013 will go ahead at the end of the month despite the city council’s objection,” Anna Leach, Gay Star News, 5 July 2013.

Online: <http://archive.globalgayz.com/europe/lithuania/lithuanian-court-rules-pride-can-go-ahead/>

- A court overruled the City of Vilnius’ refusal to issue a permit for a gay pride parade on the grounds that there was a “high probability of incidents and threat to public peace, morals, and public safety, regardless of high police presence.” The court argued that freedom of assembly is a basic human right and that it is the duty of the state to protect minority groups.

## V. International Law

### UN Treaties

Treaty	Date of Signature	Date of Ratification
ICCPR	N/A	1991
ICCPR – First OP	N/A	1991
ICCPR – Second OP	2000	2002
ICESCR	N/A	1991
CAT	N/A	1996
CAT – First OP	N/A	2014

### Human Rights Committee

<http://ihrp.law.utoronto.ca/>



1. State Party Report – “Consideration of reports submitted by States parties under article 40 of the Covenant, Third periodic national report of States parties: Lithuania,” (29 November, 2010)

Online:

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fLTU%2f3&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fLTU%2f3&Lang=en)

- **The jurisdiction of the Ombudsman for Equal Opportunities has expanded since 2004 to include investigations of complains of discrimination and harassment on multiple grounds, including sexual orientation. The Ombudsman has since issued 178 recommendations to public and private actors to discontinue actions that violate the principle of equal opportunities, as well as recommendations to implement equal opportunities in various areas. 80% of recommendations were implemented.**
- **During or after an investigation, the Ombudsman may decide to refer the case to pre-trial investigation or a prosecutor if there is an element of criminality, and may investigate and impose sanctions against administrative offences. Administrative courts investigate the legality of legal acts and actions adopted by public administration entities, the legality of their refusal or delay in performing actions within their competence, and appeal against decisions taken in cases of administrative offences.**
- **The Ombudsman proposed to resume discussions on the minimum age of consent, with a proposed age of 15 or 16. No mention was made in the report of possibly different ages of consent for heterosexual or homosexual activity.**
- **Paragraph 233 describes the main provisions of the 2010 Law on the Protection of Minors Against Detrimental Effect of Public Information (see also Section I ‘Legislation’ of this report).**
- **On 7 February 2007 the Minister of Education and Science approved the “Preparation for Family Life and Sexual Education Programme”, the purpose of which is “to prepare young people for independent life and marriage, [and] to present the universal concept of sexuality...” No mention is made if the Programme also includes information on LGBT sexualities.**

2. Relevant shadow report 1 – “Lithuania: Submission to the United Nations Human Rights Committee for the 105th Session of the Human Rights Committee (9-27 July 2012),” 2012.

Online: [http://www.refworld.org/cgi-](http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=4fe416c52&skip=0&query=lgbt&coi=LTU)

[bin/texis/vtx/rwmain?page=search&docid=4fe416c52&skip=0&query=lgbt&coi=LTU](http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=4fe416c52&skip=0&query=lgbt&coi=LTU)



- **This report concerns provisions in Lithuanian legislation which are themselves discriminatory or whose implementation could be used to justify discrimination against LGBT individuals and groups. It also documents numerous proposals to amend existing legislation and to introduce further discriminatory provisions against LGBT groups.**
- **This report reviews provisions of The Law on the Protection of Minors Against the Detrimental Effect of Public Information, proposals to amend the Code of Administrative Offences, the Law on the Provision of Information, and a proposed constitutional amendment to restrict definitions of the family as an opposite-sex institution.**
- **In particular, the report takes aim at Lithuania’s claim that the Law on the Protection of Minors Against the Detrimental Effects of Public Information has been amended so as not to classify information on homosexuality as detrimental to minors.**

3. Relevant shadow report 2 - “Human Rights Violations of Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Lithuania: A Shadow Report,” 2012.

Online: <http://www.heartlandalliance.org/gishr/publications/lgbt-lithuania-shadow-report-iccpr.pdf>

- **There are pervasive examples of a culture of anti-LGBT discrimination in Lithuania, and opinion polls show that Lithuania is one of the most homophobic countries in Europe.**
- **LGBT persons are largely portrayed in inflammatory, conspiratorial and stereotypical manner in Lithuanian media, and several politicians have made public anti-LGBT statements.**
- **Lithuanian mass media treatment of homosexuality implies that mistreatment and hatred of homosexuals is a natural response to a threat against religious and cultural norms.**
- **In the tabloid newspaper Vakaro Žinios, journalists often refer to homosexuals using the words “pervert” and “capon” (capon is a derogatory term for gay men in Lithuania).**
- **Another pervasive trend in the media is the suggestion of the existence of a “global gay conspiracy.” For example, an online paper distributed by a political group called the Union for Morality and Nation, suggested that “Homosexuals are starting a full-scale attack.” In another paper, the same group referred to tolerance of homosexuality as “an imported ideology of evil.” On May 7, 2007, Respublika warned readers that “gay influence” was increasing in Lithuania and that more LGBT persons were occupying prestigious professions, expelling “normal,” heterosexual people from these professions.**
- **A 2002 study by the Baltic Anti-Discrimination Project on discrimination based on sexual orientation in that region shows the extent of workplace**



discrimination faced by LGBT persons in Lithuania. While only 15% of respondents reported being open about their sexuality at work, 4% reported being refused a job at some point based on their sexual orientation, 9% suspect that this has happened to them, 2% report being refused promotions because of their sexual orientation, and 4% suspect that this has happened to them. Additionally, 6% of respondents reported being fired or forced to resign because of their sexual orientation, and 31% reported being harassed.

### *Committee on Economic, Social and Cultural Rights*

1. "State Party Report" (December 2011)

Online:

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fLTU%2f2&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fLTU%2f2&Lang=en)

- Summarizes Article 169 of Criminal Code which prohibits "actions aimed at hindering...a group of persons or a person...to participate on 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". Sex and sexual orientation are included in the protected groups.
- Also summarizes Article 170 of the Criminal Code, which prohibits violence or the incitement thereof on similar grounds
- The Code of Administrative Violations of Law requires that proceedings concerning administrative violations follow the principle of equality regardless of belonging in particular groups; sex is listed as a protected group but not sexual orientation, though it may fit under "other circumstances"
- Summarizes the Law on Equal Opportunities prohibiting employment discrimination, which includes sexual orientation as a protected ground
- Summarizes the National Antidiscrimination Programme of 2006-2008, aimed at enforcement of anti-discrimination legislation and "comprehensive analysis of the manifestations of discrimination...to increase tolerance within the society, and improve information provision to the public ... on the issues of non-discrimination."
- The National Antidiscrimination Programme included measures such as training for trade unions, NGOs and labour market institutions, a survey of existing anti-discrimination legislation, and various articles about discrimination and equal opportunities in daily newspapers.

NOTE: no relevant complaints under OP.



## ***Committee Against Torture***

1. State Party Report – “Consideration of reports submitted by States parties under article 19 of the Convention pursuant to the optional reporting procedure, Third periodic reports of States parties: Lithuania.” (14 March 2013)

Online:

<http://www.refworld.org/publisher,CAT,STATEPARTIESREP,LTU,5284a70b4,0.html>

- In 2008 the Lithuanian Police Training Centre organized a training programme called “Communication with Victims”, focusing on possible cases of discrimination in Lithuania including on grounds of sexual orientation. 140 officers completed the training.
- Article 4 of the Law on Equal Treatment provides that when hearing “complaints, petitions, applications, notifications or claims” of discrimination on various grounds (including sexual orientation) there is a rebuttable presumption that direct or indirect discrimination, harassment or instruction to discriminate has occurred.
- Where discrimination is found to have occurred the victim has the right to claim compensation for economic and non-economic damages from the guilty party in the manner prescribed by law.
- In 2008 43 police officers attended lectures on the causes and effects of discrimination and potential expressions of discrimination in Lithuania as part of the Lithuanian Police Training Centre program “Discrimination: Implementation of the Principle of Equal Opportunities”.
- Since 2010 the Lithuanian Police School has been conducting seminars on “Peculiarities of Communicating with Victims” (eight academic hours), aimed at teaching officers about human rights and discrimination, explaining the importance of providing assistance to victims and improving officers practical communication skills. 233 officers completed the training in 2010, followed by 120 in 2011 and 99 in the first half of 2012.

## ***European Court of Human Rights***

Lithuania signed the European Convention on Human Rights (ECHR) in 1993 and ratified in 1995.

1. *L. v Lithuania*, 27527/03

**Holding:** Violation

- The European Court of Human Rights deemed the legislative vacuum regarding how transsexuals can legally change their gender is a violation of S. 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms.





- **S. 8 provides that the state has a positive obligation to respect every individual's private life.**

The applicant alleged violations of Articles 3, 8, 12 and 14 of the Convention in respect of the lack of legal regulation regarding transsexuals in Lithuania, and particularly the absence of any lawful possibility of undergoing full gender reassignment surgery, which in turn had resulted in other hardships and inconveniences.

The applicant submitted that in 1999 his general medical practitioner had refused to prescribe hormone therapy in view of the legal uncertainty as to whether full gender reassignment could be carried out. After, the applicant continued the hormone treatment “unofficially,” as it was considered at that time that such treatment should be followed for two years before the full surgical procedure could be performed. In 1999 the applicant requested that his name on all official documents be changed to reflect his male identity; that request was refused.

The Court found that there is a legislative gap in gender reassignment surgery, which left the applicant in a situation of distressing uncertainty *vis-à-vis* his private life and the recognition of his true identity. Whilst budgetary restraints in the public health service might have justified some initial delays in implementing the rights of transsexuals under the Civil Code, too much time elapsed. Given the few individuals who would require the legal change (some fifty people, according to unofficial estimates), the budgetary burden on the State would not be expected to be unduly heavy. Consequently, the Court considers that a fair balance has not been struck between the public interest and the rights of the applicant.

### **Human Rights Council**

1. “Report on the Working Group on the Universal Period Review: Lithuania” (2011)  
Online:  
[http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-15\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-15_en.pdf)
  - **Replying to questions about the Law on the Protection of Minors against the Detrimental Effects of Public Information, Lithuania stated that as the original wording of the law evoked misgivings about its possible interpretation in a manner discriminatory against sexual minorities, the law was amended. Its current version does not classify information on homosexuality as detrimental to minors and actually protects sexual minorities by classifying as detrimental information which humiliates a person because of their sexual orientation.**
  - **To explain the attitude of the State towards sexual minorities, Lithuania stated that the Parliament rejected legislative initiatives that would have imposed administrative sanctions for propagating homosexual relationships.**





- Lithuania mentioned the trend toward prosecuting hate crimes more intensively and gave the example of a recent case related to commentaries on the internet about sexual minorities.

## VI. Government Reports

### *United States of America*

1. State Department, “Lithuania 2013 Humans Rights Report” (2013)  
Online: <http://www.state.gov/documents/organization/220511.pdf>
  - Even though LGBT individuals are not subject to official discrimination because of the *Law on Equal Treatment (2005)*, society’s attitude toward LGBT persons remains largely negative and hostile.
  - NGOs focusing on LGBT problems face no legal impediments, but the few organizations that function keep a low profile because of public hostility to their aims.

This report contains a comprehensive summary of human rights problems and practices in Lithuania. It includes an outline of current challenges faced by LGBT persons in Lithuania, and has a brief discussion of the “Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity” (Section 6). No violence was mentioned in this discussion, but there are reported instances of homophobic behaviour, including counter-protests to a gay pride march and a preponderance of anti-LGBT hate speech on the Internet among all hate speech.

## VII. Reports from International Agencies and Non-Governmental Organizations

### *European Union Agency for Fundamental Rights (EU FRA)*

1. “Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation,” 2008  
Online: [http://fra.europa.eu/sites/default/files/fra\\_uploads/327-FRA-hdgso-NR\\_LT.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/327-FRA-hdgso-NR_LT.pdf)
  - The Law on Equal Treatment, which ostensibly implements EU anti-discrimination policy, failed to transpose many of the requirements of Directive 2000/78/EC. For example, the statute’s definition of discrimination is overly narrow and it is difficult for pro-LGBT associations to help represent victims of discrimination before courts. Further, the



- Equal Opportunities Ombudsperson is not an effective advocate for the victims of discrimination and does not offer them compensation.
- Until 2007, LGBT groups were “invisible” in public life in Lithuania. Since then, LGBT groups have been attempting to hold pride marches. These attempts to appear in public attracted significant media attention and a backlash among many Lithuanians. As a consequence, the first investigations into incitement to hatred (Article 170(2) of the Penal Code) for LGBT groups occurred that year.
  - When a transgender person applies to a competent institution willing to change his or her official documents, the gender-sensitive personal code remains legally unchangeable.
  - The Law on Equal Treatment does mention transgender persons. This report says, “It is difficult to estimate how the issue of discrimination against a transgender person would be considered in practice. As yet, there have been no cases of discrimination against transgender persons brought before national courts or to the Office of the Equal Opportunities Ombudsperson.”

### *Amnesty International*

1. “Annual Report: Lithuania 2013,” 2013  
Online: <http://www.amnestyusa.org/research/reports/annual-report-lithuania-2013>
  - Discriminatory legislative provisions and legislation that can be implemented in a discriminatory manner limits the rights of LGBT people to freedom of speech and assembly.
  - A host of constitutional and legislative changes are being proposed including a constitutional definition of family as limited to marriages between a man and a woman.

### *International Lesbian, Gay, Bisexual, Transgender & Intersex Association Europe*

1. “Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans, and Intersex People in Europe,” 2014  
Online: <http://www.certidiritti.org/wp-content/uploads/2014/05/Annual-Review-2014-web-version.pdf>
  - In 2013, the pride march was censored on television. Two weeks before Baltic Pride, the Lithuanian National Radio and Television declared two videos advertising the march were unsuitable to minors. The first video invited viewers to take part in the Baltic Pride, and had to be shown after 11pm with a warning of unsuitable content for minors. The second video



argued in favour of tolerance and diversity, and had to be shown after 9pm with a recommended viewing age of 14 or older.

- 61% of Lithuanians feel that they have been harassed or discriminated against in the past year. This is the highest percentage in Europe.
- Ignas Vėgėlė, a Government nominee to fill a seat on the European Court of Human Rights, said, “If we allow gender reassignment surgeries, homosexuals will start changing their sex in order to adopt children.” Another nominee was selected.
- MP Petras Gražulis initiated and then led homophobic chanting at a basketball game broadcast nationally. He started singing “Whoever’s not jumping is a faggot!,” and led fans along in the chant. Two months later, this MP visited the office of Lithuanian Gay League unannounced to hand over a pair of jeans with a back zipper located between the buttocks. The MP was accompanied by a cameraman.
- A poll showed overall rising acceptance of LGBT individuals, as 52% of respondents believed homosexual persons should enjoy equal opportunities on the labour market; 50% said they wouldn’t change anything if they lived next to a same-sex couple; and 42% said they would be afraid if their child had a homosexual teacher (down from 58% in 2007).

2. “Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans, and Intersex People in Europe,” 2011

Online:

<http://www.ilgaeurope.org/content/download/23047/144392/version/1/file/Annual+Revw+2011+ALL.pdf>

- During municipal elections, the political party Young Lithuania unveiled the slogan *For A Lithuania Without Blue, Black, Red, and Gypsies From the Encampment*. Young Lithuania explained the slogan saying, blue represents “the ideology of sexual perversion that is being imposed on us from abroad.” A number of Lithuanian human rights organizations, including the Lithuanian Gay League, complained to the Prosecutor General on the grounds that the party’s homophobic and racist speech violated the country’s law regulating political parties and campaigning; however, no violation was found.
- Although online hate speech is criminalized, much of it goes unpunished because of the resources that it would take to investigate and prosecute these cases.



## VIII. Newspaper and Media Reports

1. "The Illusion of the EU's Commitment to LGBT Rights," Nitin Soud, EU Observer, 9 February 2015  
Online: <https://euobserver.com/opinion/127533>
  - **Soud argues that the European Union does not do enough to promote the rights of LGBT individuals within its member states and that there are regressive trends developing throughout the EU. For example, a Lithuanian MP recently warned that a local LGBT NGO will face a Charlie-Hebdo-like massacre if it continues its "provocative activities."**
2. "More Discrimination Complaints Lodged by Men than women in Lithuania in 2014," Baltic News Service, 13 January 2015  
Online: <http://en.delfi.lt/lithuania/society/more-discrimination-complaints-lodged-by-men-than-women-in-lithuania.d?id=66890058>
  - **In 2014, only 5 complaints were lodged with The Office of Equal Opportunities Ombudsman on the basis of sexual orientation.**
3. "Lithuanian Television Broadcasters Refuse to Air Pro-LGBT Ad," Ashley Fowler, Human Rights Campaign Blog, 22 August 2014.  
Online: <http://www.hrc.org/blog/entry/lithuanian-television-broadcasters-refuse-to-show-lgbt-advocacy-ad>
  - **Lithuanian television broadcasters refused to air a video that featured LGBT couples and allies. The video was produced by the Lithuanian Gay League and was meant to be a positive representation of the LGBT community as a part of their larger campaign "Change It," which encourages people to learn more about the LGBT community and combats common stereotypes and misconceptions about LGBT people. Broadcasters rejected the ads on the basis that it may violate the Law on the Protection of Minors Against the Detrimental Effect of Public Information.**
4. "Lithuania 'gay propaganda' bill fails to get the votes," Joe Morgan, Gay Star News, 13 March 2014  
Online: <http://archive.globalgayz.com/europe/lithuania/lithuania-gay-propaganda-bill-fails-to-get-the-votes/>
  - **A bill failed to pass the Lithuanian Parliament that would have outlawed gay pride parades, public speeches in support of LGBT rights, gay rights**



**campaign materials and audio-visual materials in support of LGBT rights. A plurality of members of parliament voted for the bill, but due to quorum requirements, the bill failed.**

5. "Protesters Try to Disrupt Lithuania Gay Pride," Vytautas Valentinavicius, Associated Press, 27 July 2013.  
Online: <http://archive.globalgayz.com/europe/lithuania/protesters-try-to-disrupt-lithuania-gay-pride/>
  - **A group of protesters tried to disrupt Lithuania's second gay pride parade. Despite a large police presence, the protesters threw eggs at the marchers and attempted to storm the stage. 28 people were detained by police, including an anti-gay lawmaker who rallied protesters with a bullhorn.**
6. "Tolerance Survey: Lithuanians grow more homophobic and resent Roma, but accept Russian-speakers," Vytautas Valentinavicius, 15min.it, 17 January 2013.  
Online: <http://archive.globalgayz.com/europe/lithuania/tolerance-survey-lithuanians-grow-more-homophobic-and-resent-roma-but-accept-russian-speakers/>
  - **A poll commissioned by the Office of Equal Opportunities Ombudsman showed that 47 percent of respondents would be reluctant to have an LGBT neighbour. 39 percent of respondents would resent an LGBT colleague in the work place. Most respondents also admitted that they did know actually know an LGBT individual.**
7. "Lithuanian who called for 'another Hitler' to tackle gays fined," Stephen Gray, Pink News, 1 February 2012.  
Online: <http://archive.globalgayz.com/europe/lithuania/lithuanian-who-called-for-'another-hitler'-to-tackle-gays-fined/>
  - **A man received a fine of 1560 Lithuanian litas under S. 170(3) of the Penal Code after the Lithuanian Gay League alerted authorities to his post. He wrote, "What we need is another Hitler to exterminate those fags 'cause there's just too many of them multiplying.'"**

## IX. Scholarship

1. Tomas Vytautas Raskevicius, "Emerging European consensus on legal recognition of same-sex relationships: a comparative study of Lithuania and Ireland," Central European University, Department of Legal Studies, 2012  
Online: [http://www.socforumas.lt/files/articles/2007-1\(reingardiene&zdanavicius\).pdf](http://www.socforumas.lt/files/articles/2007-1(reingardiene&zdanavicius).pdf)



- **The Lithuanian political elite ratified European human rights treaties in order to distance the country from its Soviet past and to reclaim its place in the European legal and political space. However, key domestic players have met the implementation of these treaties with reluctance and ambiguity. In reality, neither the adverse public opinion, nor the institutionalized hostility towards the LGBT community among Lithuanian elites, ceased to exist.**

This dissertation analyzes the effect of European Union human rights requirements on its member states. Lithuania's ambivalent approach to implementing European human rights standards is demonstrated by the country's response to the ECtHR's judgement in *L v. Lithuania* (mentioned above), where a legislative gap in gender reassignment procedure was found to constitute a violation of the applicant's right to private life. The Government ignored the Court's ruling.

The Law on Equal Opportunities created the Office of Equal Opportunities Ombudsman to investigate into complaints about discrimination. Between 2005 and 2011, the Ombudsman only received 41 complaints about discrimination on the grounds of sexual orientation. This low number of complaints should not be interpreted as an indicator of acceptance of LGBT persons. Instead, a more probable explanation is that there are so few complaints because wronged individuals simply do not dare to complain, as they are afraid that the issue will be escalated and their sexual orientation will become publically known.

2. *Arturas Tereškinas*, "Not private enough?: homophobic and injurious speech in the Lithuanian media," Lithuanian Gay League, 2008

- **Media representations both reflect and shape how the Lithuanian public thinks about LGBT persons. Lithuanian press and TV often exacerbate homophobic and heterosexist definitions of LGBT people. Most of the reporting attempts to humiliate and subordinate LGBT people. LGBT individuals are categorized negatively and described as morally degenerate. They are usually portrayed in sexualized ways, which associated them with sexual promiscuity and deviance.**

This study focuses on discursive patterns employed by the Lithuanian press and TV to represent LGBT people. It analyzes press coverage between February 2006 and May 2007 in four mainstream Lithuanian dailies, as well as TV news programs, and Internet blogs. This study was published before the passage of the Law on Protection of Minors Against Detrimental Effect of Public Information.

The Lithuanian media presents LGBT issues in terms of "controversy, scandal, and abnormality." News on LGBT issues is presented as unimportant and irrelevant. The press particularly focuses on LGBT individuals in the context of sex sensationalism and scandal.



Homosexuality is presented as a disease, and something exotic and strange. It is also common to present allegations of a “very active homosexual lobby ... connected to an financed by the international gay lobby.”

There are a small number of positive or complex representations of LGBT experiences and issues in the media. However, these reports are rare and the Lithuanian media is slow to report on serious news and reports about LGBT people.