



CHANGING FACES

First March for
LGBT Equality in Lithuania

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Vilnius
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MARCH FOR EQUALITY:

LGBT PEOPLE ENJOY THE RIGHT TO PEACEFUL ASSEMBLY FOR THE FIRST TIME IN LITHUANIA

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“Where do human rights begin? In small places, close to home. They are the world of the individual person: the neighborhood he lives in; the school or college he attends; the factory, farm or office where he works. Unless these rights have meaning there, they have little meaning anywhere.”

*Eleanor Roosevelt, at the United Nations,
March 1958, New York*

In the two years since 2010 and the first *Baltic Pride* March for Equality and LGBT rights in Lithuania, we have moved forward and back at the same time. Beyond Vilnius, the world has seen great progress: the first condemnation of discrimination against gay, lesbian, bisexual, and transgender people by the UN Human Rights Council, supported by the EU, of which Lithuania is a member. There have been advances in countries and regions throughout the world, some of them sharing Lithuania’s Catholic heritage: Argentina and Portugal permitted same-sex marriage in 2010, while Brazil passed laws to establish civil partnerships and protect LGBT people working in government employment, and Ireland embraced the institution of civil partnerships. In the United States the military leadership and the Department of Defense supported the repeal of the “Don’t Ask, Don’t Tell” policy, and the possibility for same-sex couples to marry was welcomed by New York, one of the most populous states in America.

In Lithuania, sadly, there has been less to celebrate. We have seen backlash and retaliation since *Baltic Pride*. Despite legal protections guaranteed by the many international human rights and national legal documents that Lithuania has adopted, the average LGBT person feels no more secure or welcome in his or her own country than two years ago. Moreover, ever limiting

legislation continues to seek to punish, coral, and legally and constitutionally define what is “traditional” and what is, simply put, “other.”

Two years on, we ask: was *Baltic Pride* worth it? Did anyone really get what they had hoped for? In some ways, the first LGBT rights march in Lithuania disappointed many people, on both sides of the debate. It was not the naked festival of hedonism and Western decadence as foreshadowed, and maybe hoped for, by the strongest opponents to the protection of LGBT rights, nor did it neatly resolve overnight the question of tolerance or magically fling open the door of the iron closet. It was not even a beginning, because the foundations for *Baltic Pride* had been laid many years before, and after much sacrifice by a brave and persistent few.

It was, though, a bold, necessary step forward. It revealed the absurdity of the claim that LGBT rights are somehow being “imposed” from the outside, that gays and lesbians are not truly an integral part of the country. We have been and we continue to be. *Baltic Pride* gave a face to Lithuania’s LGBT community. This happened in our Vilnius, under our flag, held by Lithuanians who also just happen to be – or are friends, family or supporters of someone who is – gay, lesbian, bisexual or transgender. *Baltic Pride* is now part of the common history of our nation, wherever in the world we may live in this time of emigration and national soul-searching.

It shone a light not only on those who would deny a portion of Lithuania’s citizens their fundamental human and civil rights, but it also cast a stark beam upon those who continue to choose to remain silent, asking them the uncomfortable question: where do you stand? Before, during and after the march some chose to speak out, if only briefly, on behalf of human rights. For that we can be grateful, but time will tell how durable their voices will be in the future.

Too many, including the founders and leaders of the new Lithuanian state, were and continue to remain silent. Instead of leading, they followed. They even seemed grateful for the quiet that quickly came once the cameras and newspapers had other things to report. In the years since, and particularly as new national elections approach, the voices of intolerance and bigotry have once again found themselves dominating the microphone. Our political leaders

would be well-served to remember the recent remarks by US Secretary of State Hillary Clinton, speaking about LGBT rights on International Human Rights Day in 2011: “Leadership means being out in front of your people when it is called for. It means standing up for the dignity of your citizens and persuading your people to do the same.”

Baltic Pride showed us how far we have come and how far we still have to travel. For those of us in the LGBT community, wherever we may be and whatever our social status, Baltic Pride continues to remind us of the importance of a life lived with honesty and dignity. Too many of us continue to choose silence. Those in Lithuania who have, by the grace of good fortune and hard work, achieved prominence in our society – artists, athletes, designers, politicians, leaders – must feel their share of responsibility toward those who still must hide who they are in the small-minded corners of the country, for fear of discrimination, violence, or economic and social retaliation.

Amidst all of the discussion of the legal, social and political issues that impact our common struggle for universal civil rights in Lithuania, it is easy to forget that at the center of all of these is a simple and fundamentally human question: what kind of country do we wish to live in? Is there room here for me, as I am? Unless we can answer that last question with a strong “Yes”, then the rights Lithuania respects on paper will have little meaning anywhere. The historic *Baltic Pride* march of 2010 gives us hope that our “small place” of Lithuania can still be a haven for all of us.

Darius Sužiedėlis

Darja Davydova

**FRAGMENTED SUBJECTS:
THE CHANGING FACE OF
THE LITHUANIAN LGBT
COMMUNITY IN PUBLIC DISCOURSE**

INTRODUCTION

The analysis of the Lithuanian media by Artūras Tereškinas, which examined homophobic and injurious speech in the mass media coverage of issues involving lesbians, gays, bisexuals and trans people (LGBT) in 2006–2007, showed that most often these issues are presented 1) as trivial and unimportant, 2) as physical or mental health problems, 3) as exotic and strange phenomena, 4) as related to criminality, 5) as a conspiracy against the state and the Lithuanian nation¹. Homosexuality is usually discussed in the context of family and the nation, where it is assigned the negative role of a threat to moral values. Neutral or positive information on Lithuanian LGBT people is quite rare. Similarly, the voices and opinions of LGBT people are seldom represented. This shows that LGBT epistemology originates from heteronormativity and heterosexuality, which control the construction, consumption and interpretation of everything that could be said about a specific homosexual person or LGBT people in general².

Since 2007, when Tereškinas conducted his analysis, the social and political situation of sexual minorities in Lithuania has slightly changed. In 2008, the Parliament of Lithuania approved the State Family Policy Concept, which provided an official definition of family. This document reinforced the heteronormative family model by defining that only a marriage between a man and a woman can be recognised as a family. In 2009, Lithuania adopted the Law on the Protection of Minors

¹ Artūras Tereškinas, *“Not Private Enough?” Homophobic and Injurious Speech in the Lithuanian Media*, Vilnius: Lietuvos gėjų lyga, 2007. On-line access: http://www.atviri.lt/uploads/files/dir27/dir1/16_0.php

² Didier Eribon, *Insult and the Making of the Gay Self*, Durham: Duke University Press, 2004, p. 54

from the Detrimental Effect of Public Information, banning information on homosexuality, bisexuality and polygamy. This document was amended in December of the same year, and the mention of homosexuality was omitted. However, the final version still limits dissemination of positive information on sexual minorities as it prohibits information which “expresses contempt for family values, encourages the concept of entry into a marriage and creation of a family other than that stipulated in the Constitution and the Civil Code of the Republic of Lithuania”³. Finally, in 2009 and 2010 the conservative political leaders introduced projects to outlaw what they called the “promotion of homosexuality” under the Civil and Penal Codes of Lithuania. These amendments will continue to be debated in the Parliament in 2012. The analysis of these legal changes and projects demonstrates that the political situation of Lithuanian LGBT citizens has worsened. These legal change initiatives were debated and criticised extensively by various human rights organisations in Lithuania and abroad. This situation also caused an increase in news coverage and discussion related to LGBT people. The increased attention to LGBT issues in the media provided new opportunities to represent Lithuanian sexual minorities, inform about their needs and concerns and fight for their rights.

The increased attention to the Lithuanian LGBT community also facilitated the organisation of the first Lithuanian Gay Pride event. The Baltic Pride, a joint event organised by Lithuanian, Latvian and Estonian LGBT organisations, took place in Vilnius on May 5-9, 2010 and culminated in the March for Equality. The organisers of the march had to overcome a number of political and administrative obstacles. The Municipality of Vilnius hesitated to give permission to organise the event and delayed allocating a space to be used for the march. Security issues were also problematic. Vilnius City Administrative Court withheld the permit to organise the event by the request of the interim Attorney General, who claimed to have received information that violent actions were being planned against the marchers. Following an appeal to the Supreme Court by the organisers the ban was overturned late on Friday evening, one night before the March. All these organisational issues

³ The Parliament of Republic of Lithuania, *The Law on the Protection of Minors Against the Detrimental Effect of Public Information*. Article 1.16. Adopted 22 December, 2009. On-line access to English translation: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_bin?p_id=363137

were meticulously followed and commented on in the national and foreign media, which played an important role in ensuring the event was successful.

These recent events have provided an opportunity to discuss LGBT issues not only in the context of sexual health, scandals or criminality, but also in the context of human rights. This has also allowed the LGBT community to have more control over its own representation and challenge the usual media discourses, in which sexual minorities are merely passive objects of description and have no agency in the Lithuanian political and social life.

On the other hand, public opinion on homosexuality has not changed much. In the representative public opinion survey conducted in March 2010, to the question “Would you support the gay march?” 70.3% of respondents replied negatively and 16.4% replied positively⁴. 69.8% of respondents claimed that they are not acquainted with homosexual people. To the question “In your opinion, is homosexuality a disease?” 13% replied “Yes, definitely” and 30.5% replied “Probably yes”. These figures do not differ much from the results of a survey conducted in 2006, which showed that 46.6% of the population agree with the statement that “homosexuals should be medically treated”⁵. There is also little change in the media, where negative and injurious speech about homosexuality and LGBT people has not disappeared. The main on-line and printed media quite often publish texts which oppose sexual minority rights and call to resist what they call the “demonstration of sexual perversity”. This shows that even though recent events have created new opportunities for the Lithuanian LGBT community, they have also opened new possibilities to further popularise homophobic rhetoric.

NOTE ON GOALS AND METHODOLOGY

The goal of this analysis is to examine the image of LGBT people dominated in the Lithuanian public media in 2010–2011. The conclusions allow

⁴ Survey conducted on March 8-18, 2010 by the “Sprinter tyrimai” agency by the request of the news portal DELFI. Results accessible on-line: <http://www.spinter.lt/site/lt/vidinis/menutop/9/home/publish/MTYzOzk7OzA>

⁵ Survey conducted on July 13-16, 2006, by the Vilmorus agency

us to see how the discourse on the LGBT community, its rights and concerns has evolved, and how the March for Equality and LGBT civil activism has been discussed in the media. This research seeks to identify which topics dominate the discourse on homosexuality in Lithuania, who the voice in this discussion belongs to, how LGBT people are verbally and visually represented, how people opposing LGBT rights and activism are discussed, and how events in Lithuania are covered abroad. This analysis will help understand whether Lithuanian sexual minorities have the power to create their public image themselves, or if this image still originates in the mainstream heteronormative discourse.

The data consists of news reports, political commentaries and discussions published between January 2010 and July 2011 in on-line news portals (*Delfi.lt*, *Lrytas.lt*, *Balsas.lt* and *Alfa.lt*) and popular printed media (the daily “Lietuvos Rytas”, as well as dailies “Respublika” and “Vakaro žinios” both published by the Respublika publication group), and aired on television (TV3, LNK, LTV and BTV TV channels) and radio (LR and “Žinių radijas”). The data gathering was systemic and based on the key words “homosexual”, “gay”, “lesbian”, “bisexual”, “transsexual”, “transgender”, “Baltic Pride”, “gay march” and “LGBT”. The total data consists of 1095 on-line articles, reports and commentaries, 198 printed texts, and 6 television and 6 radio talk shows. It should be mentioned that the same texts often reappear in several different sources. The gathered material includes almost all messages and debates on LGBT people and related issues available for the mass consumer in Lithuania.

Based on the collected material it is possible to distinguish several groups of information on LGBT related topics. The most attention was paid to the Baltic Pride events, protests against the March for Equality and political events related to the laws that limit the dissemination of information on LGBT issues. Other most popular topics include news related to foreign LGBT people, speculations on the causes of homosexuality, opinion statements on sexual minority rights and the March for Equality, trivia about LGBT celebrities and scandals related to sexual orientation. Some texts focus on personal life stories of LGBT people and discuss homosexuality in medical and criminal contexts. This analysis focuses on all of these topics and seeks to find out which assumptions, norms, values, views and knowledge underlie the discourse on sexual minorities and how the public image of LGBT people is created.

Other type of data includes texts published on websites in Polish, Russian, French, German and English languages. This material shows general tendencies in the discourse on Lithuanian LGBT issues; however it should not be considered as representative and inclusive of all information on Lithuanian sexual minorities available in foreign public media.

BALTIC PRIDE IN THE MEDIA

The first information about organising the Baltic Pride appeared in printed and on-line media in January 2010, when the Lithuanian Gay League (LGL) applied to the Municipality of Vilnius for permission to organise the March for Equality. The majority of the articles on this event consist of news reports which meticulously describe administrative and legal aspects of organising the event, such as the location, security and legal issues concerning the permit. A lot of attention was also given to protests against the march, their planning, goals and realisation. These articles often quoted opinions and comments of politicians and other state representatives, and organisers of the Baltic Pride and the protests. Many articles also informed about international organisations, foreign governments and politicians' comments on the Baltic Pride and legal initiatives. In the context of the Baltic Pride, many texts also touched upon the topics of human rights, the causes of homosexuality, homophobia and Lithuanian and EU politics concerning sexual minorities.

The Baltic Pride and political events related to it encouraged many political leaders and activists to express their opinion on the LGBT community and the march. They also provided an opportunity for the LGBT community to become visible and audible in the media. Several years ago representatives of sexual minorities were rarely quoted in articles, which were directly related to their lives and concerns, and the attention of the media was more centred on the opinions of individuals fighting against LGBT rights. In the context of Baltic Pride, LGBT citizens and activists promoting LGBT rights were able to challenge the dominant discourse and have more control over their representation. Among the people who were quoted in the articles the most were

Baltic Pride organisers Vladimir Simonko, Vytautas Valentinavičius and Eduardas Platovas, and human rights activists Henrikas Mickevičius, Margarita Jankauskaitė, Artūras Rudomanskis, Nida Vasiliauskaitė and Aušrinė Marija Pavilionienė. In their statements these people emphasised the importance of human rights for the Lithuanian society, warned about LGBT discrimination and claimed that LGBT people are no different from other Lithuanian citizens and should have the same rights. On the other hand, political leaders and activists who do not support LGBT rights and the march also had more space to express their opinions, to interpret the Baltic Pride and to create new myths about homosexuality, while human rights activists' voices were sometimes misinterpreted or derided.

It is important to address the terminology that was used by various activist groups to discuss Baltic Pride events. In order to stress the difference between the Lithuanian event and carnivalesque Gay Pride festivities that are usually organised in other Western countries, the Lithuanian version of the Baltic Pride website used the word “walk” (lt. “eitynės”) to describe the event⁶. Nevertheless, in many news reports and commentaries the March for Equality was called a gay or homosexual parade or march (lt. “gėjų paradas”, “homoseksualų maršas”)⁷. This terminology was frequently used by authors who opposed the Baltic Pride (mainly *Balsas.lt* and “Respublika” journalists). This terminology allowed for association of the Lithuanian Gay Pride with a carnival, feast and nudity, and to radically sexualise it. Creating such an image of the march

⁶ The Lithuanian word “eitynės” is the most close to the English word “walk”; however the organisers later translated “Eitynės už lygybę” to “March for Equality”. This translation is not in accordance with the organisers' use of Lithuanian terminology, as in press releases and public statements they repeatedly claimed that the event should not be called a march (lt. “maršas”) or a parade (lt. “paradas”), but a walk (lt. “eitynės”, “eiseną”). Both words “maršas” and “paradas” hold connotation to militant or ideological marches, whereas “eitynės” refers to a peaceful demonstration. In this text I use the organisers' translation.

⁷ Ex. BNS “Vilniuje prašoma leisti surengti gėjų parada” [Vilnius Municipality was asked to allow the gay parade], January 22, 2010, *Balsas.lt*; “Lietuva stabdo homoseksualų maršą” [Lithuania thwarts the march of homosexuals], March 29, 2010, “Respublika”; D. Gudavičiūtė, “Gėjų parade drąsino ir tradicinės orientacijos žmonės” [Gays in the parade were supported by people with traditional sexual orientation], May 10, 2010, *Lrytas.lt*

contradicts its main political purpose to remind society about the hardships and discrimination of LGBT people⁸.

It should also be noted that in the discussion on the Baltic Pride other sexual identities – lesbian, bisexual, transgender – were seldom mentioned and the term “LGBT” was used only occasionally. Sexual minorities were often addressed as “gays”, which primarily associated the Baltic Pride with homosexual men. Moreover, the news reports frequently used stereotypical images of homosexual men. Many articles included sexualised images of men or photographs of Gay Pride festivals abroad. One of the reasons for this choice of visual material was the absence of photographs of sexual minorities en masse prior to the Baltic Pride. However, the stereotypical images were not only used in visual material but also in texts. For instance, the headline of an article published before the March for Equality informing that the event would be political and not celebratory said “Gays will refrain from public nudity”⁹. This formulation exemplifies the underlying association of homosexual men with exhibitionism, sexualises them, and constructs them as sexual deviants seeking to divest in public. This article also makes an assumption that public nudity was one of the purposes of the event and was stopped by public outrage.

Many texts related to the Baltic Pride included opinions on the march, homosexuality and LGBT activism. In the articles supporting sexual minorities, LGBT people were presented as activists for human rights, freedom of speech and public gathering. Many of these texts opposed the prohibition of “homosexual propaganda” and put this phrase in quotation marks, thus challenging the popular image of LGBT activism as propaganda. These texts also emphasised and elaborated on the purposes of the March for Equality. Some texts mentioned the reason for the march as presented by the organisers: “to provide an opportunity for human rights activists from all over Europe to mobilise and discuss common problems and hardships, to share experiences in fighting discrimination and promoting equality and human rights, as well as to celebrate

⁸ This contradiction was also addressed by some participants of the event. Ex. J. Juškaitė, “Tai eisena ar paradas?” [So, is it a walk or a parade?], March 25, 2010, *Delfi.lt*

⁹ “Gėjai atsisako nuogybių demonstravimo”, May 5, 2010, *Balsas.lt*

achievements”¹⁰. The question on the aims of the March for Equality was also very popular on radio and TV shows. For instance, in one of the shows organiser Vytautas Valentinavičius said:

“The main idea of the event is to unite people who care about human rights and who could express their views during this event and to support Lithuanian gays, lesbians, bisexuals and trans people, who would like to remind with this celebration of equality that all people should be valued equally and have equal rights with everyone else”¹¹.

Even though the original purpose of the march as defined by the organisers was many times mentioned in the media, it was widely debated and interpreted in political commentaries. The authors who supported LGBT activism mentioned that the march seeks to mobilise the LGBT community and to fight inequality, while the opponents of the march claimed that the real purpose of the march was public demonstration, the recruitment of youth into a homosexual lifestyle, and the demand for special privileges. For example, Member of Parliament (MP) Valentinas Stundys in reply to a journalist’s question about the purpose of the march claimed: “The parade means showing off and self-exposure. If for those people [LGBT], most likely, another kind of gathering is not enough, it means that they seek some sort of advertising and propaganda”¹². In the discourse with this kind of underlying logic homosexuality is interpreted as a political ideology which relocates the discussion from the context of human rights to the context of moral and ideological indoctrination and in this way legitimises the infringement of free speech. For instance, following this logic, Romualdas Ozolas delegitimises the rhetoric of

¹⁰ “Eitynės homoseksualams taps proga švęsti ir aptarti skaudulius” [The walk will become an opportunity for homosexuals to celebrate and discuss problems], April 26, 2010, *Delfi.lt*

¹¹ Radio show “Dienos klausimas: Ar galima tvirtinti, kad leisdami Vilniuje homoseksualų eitynes demonstruojame savo toleranciją?” [Could we claim that by allowing a homosexual walk in Vilnius we demonstrate our tolerance?], January 29, 2010, “Žinių radijas”. Hereinafter translated from Lithuanian by the author.

¹² E. Samoškaitė, “V. Stundys: Homoseksualai siekia pasidemonstruoti” [V. Stundys says ‘homosexuals seek to show off’], February 7, 2010, *Delfi.lt*

human rights and portrays homosexuality as an aggressive movement which demoralises society:

“If we want to be truthful and follow the legal code, we should say that homosexual parades and homosexual rights are somewhat different things. The opponents of the parades have nothing to say against the rights of homosexuals to be as they are; however they quite rightfully protest against the parades, because the parades are a promotional show, propagating homosexuality in the most aggressive way, and society has a right to fight against such aggression as it fights against the demonstration of Nazis, Zionists, Bolsheviks or Mojaheds, because they target the very foundations of society. I cannot see any logic in the values of modern civilisation that tolerates and even promotes homosexuality but prohibits prostitution or segregates the workers of the oldest profession into red light ghettos. What kinds of power are causing this degradation?”¹³

Similar logic is used in the political commentary by the leader of the Lithuanian Nationalist Youth and the organiser of one of the protests, Miglė Nargėlaitė:

“We do not force gays to stop being gay. We just want to tell them that they should not demonstrate their bedroom issues to the whole world. Would normal people run down the streets yelling about who they sleep with when there are little children around? If they want to do this, it means they are perverts! Unfortunately, we cannot completely exterminate perverts and cockroaches, there will always be a couple left.”¹⁴

In this type of speech the authors use far-reaching comparisons of homosexuality with radical political ideologies and attempt to evoke fear, anxiety or anger. Some writers even use the term “homofashism”¹⁵. These comparisons are illogical, ill-grounded and unsupported. This discourse is sensational, seeking to evoke negative feelings, and to cause moral shock in the audience,

¹³ R. Ozolas, “Ką reiškia ginti homoseksualų teises” [What does it mean to defend homosexuals’ rights], April 13, 2010, *Balsas.lt*

¹⁴ M. Nargėlaitė, “Mitingas prieš gėjų eitynes organizatorių akimis” [The protest against the gay walk from the organisers’ point of view], March 29, 2010, *Balsas.lt*

¹⁵ M. Kundrotas, “Žydrujų smogikų užmačios” [The conspiracy of faggot aggressors], February 19, 2010, *Balsas.lt*

which would urge society to protect itself from real or imagined enemies. The texts centred on opposition to the March for Equality usually aim to evoke a stream of negative emotions. The feeling of disgust and pity is appealed to by comparison of homosexuality with criminality or disease:

“Me, personally, I am not a homophobe, because I do not fear gays and lesbians. I just really pity them, as I pity unfortunate people. They will never have satisfying sex, which is meant not just for pleasure but is performed with aspiration to cooperate with God in creating, which is meant to create a new life. They will never be able to look into a baby’s eyes and find the reflection of themselves and their beloved there. They have impoverished themselves, they have doomed themselves, we can only feel compassion. However, everyone should struggle against advertising this phenomenon – the Church, the State and the whole Nation. We have to protect our children from this misfortune. We have to promote tolerance for people who deserve it. Tolerance cannot be all-encompassing, as society does not tolerate thieves, robbers, rapists, perverts and so on. This is a heavy reaction, a reaction of self-defence. Society must tolerate only those things that help it to survive. The things that destroy society deserve condemnation and punishment.”¹⁶

As this example shows, the comparison of sexual minorities with asociality and amorality seeks to evoke the natural negative reaction in the reader who knows little about homosexuality. In such rhetoric the appeal to human rights and tolerance is presented as a lack of common sense, while the Baltic Pride becomes an example of aggression and sexualisation of public space.

It should also be noted that even though the March for Equality was organised by Lithuanian organisations, it frequently lost its national symbolic component in the public discourse. This lack of national identification can not only be seen in the media, but also in the march itself. The main symbols of the protests against the march were the Lithuanian flag, anthem, slogans and posters with national symbols. The march in turn was primarily associated with transnational identity and represented cosmopolitanism. Right from the beginning of organising the event it was presented as a united Baltic and European Gay Pride rather than

¹⁶ J. Panka, “Rėkianti vaivorykštė” [The screaming rainbow], February 4, 2010, *Balsas.lt*

a Lithuanian Gay Pride. The symbol of the Baltic Pride portrays the flags of Lithuania, Latvia and Estonia tied together. The cooperation with other EU states was especially important for financial, informational and political support, because the participation of international media and international human rights organisations played an important role in helping to receive the permission for the march and ensuring safety of the participants. As a result, no less than half of the participants were international guests, and the front row of the march was occupied by organisers, ambassadors, representatives of European states and international human rights organisations. Even though the cosmopolitan identity was beneficial for the Lithuanian LGBT community, it helped the opponents of the march to ground their arguments about the “gay lobby” in the EU and to present homosexuality as a phenomenon alien to Lithuania and originating outside of it.

THE PATTERNS OF LGBT REPRESENTATION IN LITHUANIAN MEDIA

Since the beginning of 2010 discussion on the Baltic Pride and related events constituted a major part of the public discourse on LGBT issues. However, it was not the only significant topic revolving around sexual minorities. News reports, articles and debates in printed and on-line media, as well as TV and radio shows, also focused on scandals and life stories of Lithuanian and foreign LGBT celebrities and LGBT related events, such as Gay Pride festivals abroad, legal changes or instances of discrimination. Many texts also covered instances of discrimination in Lithuania, criminal cases against authors of on-line hate speech and violent protesters against the March for Equality, and criminal cases related to the aggressive behaviour of MPs Petras Gražulis and Kazimieras Uoka during the Baltic Pride. Quite often the texts discussed the political pressure put on Lithuania by the EU in order to ensure protection of sexual minorities’ rights. Many articles and public statements were targeted against LGBT rights; however there were a significant number of texts and speeches by LGBT activists, coming-out and LGBT life-stories, whose authors often chose to remain anonymous. Homosexuality was also quite often discussed in columns on physical and mental health, psychotherapy and sexual advice.

There is a wide variety of assumptions, norms and values underlying these texts, including homophobic myths, speculations about the causes of homosexuality, scientific information and rhetoric of human rights. The patterns of homophobic and injurious speech that were described in Tereškinas' study still remain in many sources. Homosexuality is still primarily discussed in the contexts of scandal, disease, crime and national threat. These patterns are dominant in the dailies "Respublika" and "Vakaro Žinios" (which are both published by the "Respublika" publishing group), on the website Balsas.lt, in talk shows hosted by Tomas Dapkus on the LR radio channel¹⁷, and in the speeches of some Members of Parliament and leaders of anti-LGBT activist groups. Homophobic rhetoric has not subsided in these types of texts; however the use of sensational terminology has significantly decreased in headlines. Moreover, the amount of negative and injurious visual material, especially the number of collage caricatures that degraded sexual minorities and were frequently published by the daily "Vakaro Žinios", has diminished. This change could have been caused by the frequent criticism of "Vakaro Žinios" and other journalists by the Lithuanian Ethics Commission of Journalists and Publishers. Overall, even though injurious speech is still very popular in the media, a new type of discourse – anti-homophobic, pro-human rights, scientifically grounded and originating in the LGBT community – has emerged. This discourse is the most visible in the daily "Lietuvos Rytas" and news portals Delfi.lt and Alfa.lt. Journalists affiliated with these publishers often publicly support the promotion of multiculturalism and diversity in the Lithuanian society, and mention and interview representatives of the Lithuanian LGBT community.

POSITIVE DISCOURSE ON LGBT PEOPLE

Authors who positively mention LGBT activism, support LGBT rights or present neutral information about the LGBT movement usually discuss the meaning and positive outcomes of the Baltic Pride, criticise anti-LGBT demonstrations and discourse, talk about stereotypisation and discrimination of sexual minori-

¹⁷ The LR radio channel and LTV television channel are Lithuanian national broadcasters.

ties, point to the lack of objective and positive information on LGBT issues, criticise censorship laws and lack of variety in family models, discuss cultural events related to LGBT, and analyse the relations between the LGBT community and international human rights organisations. The authors of these texts are usually LGBT and human rights activists, journalists, artists, sociologists and tolerance-promoting politicians. Their writings present homosexuality as one of the possible human sexual identities and explain homophobia as a hostility that originates in lack of education and misleading information provided by the Church and anti-LGBT politicians. These texts are usually quite unfocused. They repeatedly reproduce human rights rhetoric, discuss the meaning of rights and liberties in general terms, and remind of Lithuania's obligations towards the EU and international human rights organisations. For instance, philosopher Kęstutis Girnius writes:

“Lithuanian homosexuals are citizens of a law-governed state. They have the same basic rights as every other citizen. The state is obliged to secure them. Freedom of speech and public assembly apply to everyone. Rights are not worth a lot if they apply only to friends or like-minded people. They become meaningful only when we protect what we don't like.”¹⁸

Girnius also says that these are basic statements that one would not have to repeat if it was not for the promotion of hatred and repeated attempts to ban the March for Equality undertaken by some politicians. Indeed, quite often similar texts simply react to the homophobic statements of conservative politicians, discriminatory legislative initiatives or other events promoting discrimination and aggravating the situation of the LGBT community. These texts talk about morality, discrimination, free speech and the lives of LGBT people in general terms without providing specific examples¹⁹.

¹⁸ K. Girnius, “Teisinėje valstybėje homoseksualų teisės turi būti ginamos” [The law-governed state should protect the rights of homosexuals], April 6, 2010, *Delfi.lt*

¹⁹ See, for instance, “Europos studentai: Lietuvoje trūksta pagarbos žmogaus teisėms” [European students say ‘Lithuania lacks respect for human rights’], May 10, 2010, *Alfa.lt*; J. Juškaitė, “Žmogaus teisės Lietuvoje ginančios organizacijos sako beveik nesulaukiančios EP narių pagalbos” [Human rights organisations in Lithuania claim they don't receive support from the European Parliament members], November 12, 2010, *Delfi.lt*; I. Vainalavičiūtė, “Lietuviams vis dar svetimos Europos vertybės” [European values

Many LGBT-positive articles were written by anonymous authors. These articles are particularly significant, as they do not usually rely on abstract human rights rhetoric but rather narrate a personal story that allows for understanding of the lives and problems of LGBT individuals. For instance, Tomas, one of the readers of *Delfi.lt* writes in his open letter to the publisher:

“I am tired. I am tired of constant fear for myself and my boyfriend. Maybe we are young and not tough-skinned yet, but I cannot put up with it any longer. You might call me paranoid, but whenever we would go with my boyfriend, we are always stared at. People stare at us as if we are freaks. We are lucky if people only stare, sometimes they yell some crap. My boyfriend, in addition to being homosexual, is also Roma. I have no idea how he bears this – you not only get called a ‘faggot’, but also a ‘blacky’.”²⁰

Tomas writes not only about homophobia but also about hostility towards ethnic minorities. In his text he writes about his decision to leave Lithuania with his boyfriend. He does not really want to do this but he feels that Lithuania does not provide safety and happiness for him. Tomas also idealises the world outside of Lithuania as he recalls his recent holidays in Berlin, where he felt invisible to passers-by even as he was holding hands with his partner. He writes: “How much does it mean to be just unmarked, just to be oneself, just... to love... [...] I am heading to a place where I will feel human.”

Another anonymous transsexual *Delfi.lt* reader also shared their negative experience:

“Every time someone calls me by my name in public, every public interaction where my name is used as written in my passport is a little internal death. So is every visit to the bathroom (twice as much if it is public), every shower, every hot summer day when you want to wear just a T-shirt and go swimming. Transsexuals often die. They must have

are still irrelevant to Lithuanians], June 11, 2010, *Balsas.lt*; A. Vinokuras, “Šunų, vaikų ir žmonių teisės Lietuvoje” [The rights of dogs, children and people in Lithuania], March 26, 2010, *Balsas.lt*, V. Simonko, “Džokjakartos principai – tikrasis lesbiečių ir gėjų manifestas” [The principles of Yogyakarta are the real manifesto of lesbians and gays], April 30, 2010, *Delfi.lt*

²⁰ Tomas, “Esu homoseksualus ir dėl to savo šaliai nereikalingas” [I am homosexual and thus my country doesn’t need me], April 22, 2011, *Delfi.lt*

more lives than cats. They die even at those moments when others feel most alive, when they are in love.”²¹

The texts written by LGBT people are most often especially emotional. They seek to share their experiences and authentic feelings. They are usually resentful and blame society for hatred, homophobia and violence. Their texts describe specific experiences and therefore differ a lot from the abstract discourse of human rights, which is extensively used in ineffective and often ignored anti-discrimination laws, political speeches and mass media.

Some specific LGBT issues, such as discrimination in schools, psychological problems and accessibility of health services, are sometimes also mentioned in analytical scientific articles or in texts focusing on physical or psychological health²². However, the content of specific LGBT problems and rights is rarely discussed, as if the terms “discrimination” and “human rights” without any further explanation refer to the whole spectrum of issues which are important for Lithuanian LGBT people and all solutions needed for solving them. On the other hand, one needs to note that the rhetoric of human rights provides the LGBT community with necessary discursive and legal instruments, which are used to talk about the daily lives of LGBT people and to fight for positive change in the political domain.

DISCOURSE ON HOMOPHOBIA

The rhetoric of human rights is not the only instrument used to talk about the situation of LGBT people in Lithuania. Over the last several years the

²¹ “Mano istorija: aš kaltas, kad esu transseksualas” [My story: I am guilty to be transsexual], May 22, 2010, *Delfi.lt*)

²² Ex. E. Digrytė, “Netolerancijos vaikai išmoka Lietuvos mokyklose, rodo tyrimas” [Research shows that children learn intolerance in Lithuanian schools], March 2, 2010, *Delfi.lt*; E. Digrytė, “Vadovėliai pasakoja apie ne-normalius santykius, amerikiečių analfabetizmą ir mergaites manekenes” [Schoolbooks teach about non-normal relationships, analphabetism of Americans and girl models], March 7, 2010, *Delfi.lt*; M. Jackevičius, “Psichologas apie homoseksualumą: negalima pakeisti to, kas natūralu” [Psychologist says about homosexuality ‘We can’t change what is natural’], April 19, 2011, *Delfi.lt*; V. Valentinavičius, “Duomenys dėl AIDS ir ŽIV kelia abejonių” [Data on AIDS and HIV might be incorrect]; December 2, 2010, *Delfi.lt*

term “homophobia” became popular among both LGBT individuals and human rights activists and in the discourse of those opposing LGBT rights. This term has been assigned quite different meanings. Homophobia can be understood as a social phenomenon, irrational fear, pathology or behaviour related to the hegemonic masculinity²³. The Lithuanian public discourse usually defines homophobia as “the unreasonable fear of homosexual individuals, hatred and hostility”²⁴. This definition emphasises the irrationality of a homophobic set of views or behaviour. In other instances, media uses this term to not only mark the irrational fear, anti-LGBT activist groups or social phenomenon, but define it as an ideology intersecting with nationalism, racism, misogyny and religious fundamentalism.

Talking about homophobia and the search for its reasons is a discursive means allowing LGBT rights proponents to discuss the complex and multi-dimensional oppressing power system in the Lithuanian society. For instance, the human rights activist Donatas Paulauskas in his article discusses the relation of homophobia to public discourse on collective national morality:

“There was a stream of negative comments and opinions expressed after the beginning of discussions on homosexuality and the walk of homosexuals. Commentators, politicians, neo-Nazis and clergy, who all shared the same rhetoric, united together (a paradox?). [...] Frequently, in the homophobic statements, besides injurious speech, we can find such words as ‘morality’, ‘respectability’, ‘nation’ and ‘national values’. These words in all cases are juxtaposed with homosexuality and with homosexual individuals.

This allows us to understand, and sometimes it is just plainly stated, that a homosexual person cannot be respectable, cannot have morals or even does not belong to the (Lithuanian) nation (in reference to the purity of its origins) and is anti-national (meaning a dangerous enemy of the nation and the state).”²⁵

²³ G. Herek, “Beyond Homophobia: Thinking About Sexual Prejudice and Stigma in the Twenty-First Century”, *Sexuality Research & Social Policy*, Vol. 1, No. 2, April 2004.

²⁴ J. Ogulevičiūtė, “Pakantumą gėjams ugdysimės dar dešimtmečius” [It will take decades to learn tolerance towards gays], September 12, 2010, *Alfa.lt*

²⁵ D. Paulauskas, “Apie homofobinę retoriką ir leksiką” [On homophobic rhetoric and lexicon], February 13, 2010, *Delfi.lt*

Homophobia and homosexuality in the context of national identity is indeed one of the most frequently discussed topics in the statements on LGBT issues. In this context homophobia is identified as a radical thought in nationalist ideology²⁶. Most often a lack of education and knowledge on homosexuality, as well as dissemination of stereotypes and negative information on LGBT people, is identified as the main reason of homophobia²⁷. Many authors also present homophobia as a natural element of Catholicism or its direct outcome²⁸.

In this discourse, the LGBT rights proponents use the term “homophobe” as a key word to signify the opposite of an LGBT individual and identify homophobic activists who promote it as an ideology, organise protests against homosexuality and initiate laws that aggravate the exclusion of LGBT individuals. The names of these people, specifically the conservative MPs Petras Gražulis and Kazimieras Uoka, became synonyms and symbols of Lithuanian homophobia. Their opponents conceptualise homophobia not only as an ideology, but also as a political agenda. Their actions are meticulously followed by media. Quite often they are criticised, ridiculed or parodied. Despite this often negative response, their homophobic statements too often become the centre of attention deriving it from the issues directly related to LGBT needs and concerns. The analysis of the media shows that these people attract more attention than LGBT rights activists. For instance, in the collected published material the name of Gražulis appears in no less than 234 articles, while the name of the Chair of the Lithuanian Gay League Vladimir Simonko appears only in 49 articles despite the fact that Simonko is one of the most visible

²⁶ V. Mitė, “Gėjų paradai Lietuvoje – raudonas skuduras buliui” [Gay parades in Lithuania are like a red cloth for bull], February 1, 2010, *Delfi.lt*; T. Venclova, “Aš dūstu” [I’m suffocating], July 16, 2010, *Delfi.lt* reprinted from “IQ”

²⁷ Interview with S. Valiulis in I. Vainalavičiūtė, “Baimę ir homofobiją gimdo nežinia” [Fear and homophobia create uncertainty], April 23, 2010, *Alfa.lt*; A. M. Pavilionienė, “Pseudoteorijos ir lytinės mažumos” [Pseudotheories and sexual minorities], May 5, 2010, *Delfi.lt*

²⁸ E. Rutkunas, “Bažnyčios mokslo šaknys karcios, vaisiai – taip pat” [The Church’s teachings are arduous, so are their outcomes], January 12, 2011, *Delfi.lt*, M. Jackevičius, “Tarp homofobijos priežasčių – ir politikų, ir bažnyčios priešiškus” [Among the reasons of homophobia – the hostility of politicians and the Church], November 11, 2010, *Delfi.lt*

LGBT rights activists in Lithuania, is the main organiser of many LGBT related events and openly comments on LGBT issues. This unequal media focus demonstrates that even though homophobia is an important instrument to describe the social reality of LGBT people, it also provides an opportunity to concentrate attention on those individuals whose rhetoric and actions become a source of homophobic discourse. When the political power belongs to these people, the discourse on homophobia obstructs the opportunity to create an alternative discourse on LGBT people.

The opponents of LGBT rights have several strategies to confront the accusation of homophobia. One of these strategies is to ignore the accusation and the discussion on the meaning of homophobia. This strategy is used by radical individuals who usually completely ignore the arguments of their opponents²⁹. Another strategy is to confront the accusation and to say that homophobia does not mean calling hostility against LGBT individuals but is a rational and well-grounded concern for society's safety, order and the nation's respectability. These types of texts argue that events similar to Baltic Pride are meaningless and irrelevant for the country³⁰. The anti-LGBT authors often define and contest the term "homophobia" as a word that does not originate in the Lithuanian language and does not apply to the Lithuanian context but is imposed on Lithuania by Western countries³¹. In this way the opponents of LGBT rights challenge and reject not only the notion of homophobia but also other terms which serve to oppose anti-gay rhetoric, such as "tolerance", "discrimination" and "human rights".

²⁹ See talk show "Savaitės atgarsiai: Ar Lietuvoje gali viešai reikštis seksualinės mažumos?" [Should sexual minorities be visible in Lithuania], May 10, 2010, LTV, for the heated debate between Gražulis and LGBT activists, in which he disrespectfully ignores his opponents.

³⁰ O. Šuprun, "Baltic Pride iliuzionistai" [The magicians of the Baltic Pride], May 7, 2010, *Lrytas.lt*, "Jei nenori, kad gėjai viešai demonstruotų save, tai nesi homofobas" [Opposing self-exposure of gays doesn't mean you are a homophobe], March 26, 2010, *Alfa.lt*

³¹ "M. Adomėnas: Briuseliui reikia tikrų žinių apie mažumų laisves" [MP M. Adomėnas says Brussels needs to get real knowledge about minorities' liberties], April 29, 2010, *Delfi.lt*; A. Patackas, A. Žarskus, "Naujakalbė arba juodoji kalbos magija" [New words or black magic of the terminology], July 12, 2010, *Alfa.lt*

HOMOSEXUALITY AS AN INFLUENCE FROM ABROAD

The political pressure to ensure the rights of sexual minorities put on Lithuania by the EU, international human rights organisations and representatives of several foreign countries sparked heated discussions on cultural differences and similarities between Lithuania and Europe. The debate on foreign influence and difference in values between countries was one of the most debated themes in the context of LGBT rights. For human rights activists this gave an opportunity to talk about Europe and the EU as a good example of an alternative justice system, which Lithuania should follow³². These texts usually mention international human rights declarations and other documents that oblige Lithuania to protect the rights of sexual minorities.

At the same time the opponents of LGBT rights portray Europe as an aggressive power that seeks to harm the Lithuanian national identity and moral values. In this case Europe is compared to the Soviet Union, which inevitably creates negative associations with totalitarian regime. For instance, Doctor of Philosophy and Professor of Vilnius University Vytautas Radžvilas interprets the pressure of the European Parliament to overturn the Law prohibiting dissemination of information on homosexuality and states:

“The intervention of Brussels in our domestic affairs is increasing and quite soon it will reach the level where every EU member state, as well as Lithuania, will have to decide what to do. As we were joining the EU there was no discussion on the involvement [of Brussels] in the country’s cultural affairs, traditions and virtues. Now this intervening is quite surprising, not because it could not be expected, but because it becomes more and more direct and impudent.

Therefore I think that at a certain point the state of Lithuania, maybe even the Parliament, should openly and clearly admit that Lithuania, which has experienced the experiment of totalitarianism and communism in the past, will never agree to repeat it again despite the fact that today [this experiment] is presented through happy slogans on equality

³² V. Valentinavičius, “Mėgavimasis homoseksualumu namuose arba gali-mybė naudotis visomis pilietinėmis ir socialinėmis teisėmis” [Enjoying homosexuality at home vs. enjoying all civil and social rights], February 15, 2010, *Delfi.lt*

and human rights. The question is when will that happen, and whether Lithuania will have enough political will to do it.”³³

The organiser of the demonstration against the March for Equality and the Chair of the Lithuanian Nationalist Youth Miglė Nargėlaitė also employs similar comparisons with totalitarian regimes:

“This pressure by foreigners and the attempt of foreign politicians to force Lithuania to give up against homosexuals shows that through gays the EU intervenes into Lithuanian cultural life, which demonstrates an attempt to create a liberal empire based on perversity. Liberalism should support free choice; however, if today you choose not to be liberal, liberals will hold you the people’s enemy, so much like communists.”³⁴

Following this identification of homosexuality as an aggressive power that originates in the EU and seeks to destroy Lithuanian values, LGBT activism is often referred to as the “gay lobby” that seeks to ensure special privileges for gay people or as a business interest³⁵. These texts talk about homosexuality as ideology or as a tool to undermine family and Christian values. So, for instance, in the radio talk show titled “Christians the people of hope” the host Tomas Dapkus stated:

“Christian people, especially in the West, say that the main target against Christianity is family values, and destroying the family institution as a foundation for society. Examples are homosexual marriage and their right to adopt. In Europe, as well as in Lithuania, the dominant politics is to erase the difference between men and women, so that there are no genders. If you cannot be strong enough to be a man, you can be a woman, and so on. Why is this attack on the family happening? How can

³³ “Briuselio ledlaužiai taranuoja Lietuvos konstituciją” [Icebreakers from Brussels batter the Lithuanian constitution], November 23, 2010, “Vakaro žinios”

³⁴ M. Nargėlaitė, “Mitingas prieš gėjų eitynes organizatorės akimis” [The protest against the gay walk from the organisers’ perspective], March 29, 2010, *Balsas.lt*

³⁵ T. Čyvas, “Teisių gynimo verslas” [The business of fight for human rights], May 27, 2010, *Balsas.lt*; M. Kundrotas, “Gėjai – didžioji problema” [The big gay problem], March 21, 2010, *Alfa.lt*; L. Astra quoted in *Elta*, “Tolerancijos pergale ar tautiškumo naikinimas” [The victory of tolerance or the destruction of national identity], May 4, 2010, *Delfi.lt*

we still protect these things, when European leaders are doing everything to make them disappear?”³⁶

The main outcome of this logic is that minorities are and should be recognised as outsiders simply “because our customs are like that, because we are a Catholic country and some traditions we still have to follow”³⁷. Moreover, LGBT people are frequently compared to immigrants and ethnic minorities, which symbolise the outside of and the opposition to national identity. This discourse creates an impression that there has never been homosexuality in Lithuania and that it originates in the more liberal Western countries.

HOMOSEXUALITY BETWEEN THE PRIVATE AND THE PUBLIC

The published life-stories of LGBT people make us wonder whether their lives are private or public, and if they have to be visible. As these stories often reveal people’s emotions, difficult issues and details about their sexual lives, they make what we consider to be a private personal affair a public matter, and sometimes a strange, intriguing or scandalous matter. They are publicly discussed by people who are believed to have knowledge about homosexuality, such as psychologists, doctors and scientists. However, at the same time these stories remain fragmented and mysterious. Their main characters are rarely seen. Instead of their pictures, in order to illustrate the story editors use anonymous photographs that convey the feeling of mystery, melancholy and alienation³⁸. The-

³⁶ January 24, 2011, LR radio channel

³⁷ V. M. Čigrijienė, quoted in “Europa liepė nusilenkti mažumoms” [Europe commanded to bow for minorities], March 5, 2010, “Respublika”

³⁸ See illustrations to A. Urbonaitė, “Vilniuje dirbusios JAV vienuolės suviliota lietuvė prarado save” [A Lithuanian girl lost herself after being seduced by an American nun working in Vilnius], December 4, 2010, “Lietuvos rytas”; “Lesbietės atranda saviškes pagal kvapą” [Lesbians discern their own kind by odour], November 21, 2010, *Alfa.lt*; “Psichologo patarimai. Esu ištėkėjusios moters meilužė” [Psychotherapist’s advice: I am a mistress of a married woman], May 25, 2010, *Delfi.lt*; “Kodėl ištėkėjusios moterys išsimyli moteris” [Why married women fall in love with women], July 27, 2010, *Delfi.lt*

se illustrations rarely portray their subjects in the full but instead show only fragments. What the reader can see in these pictures are clasping hands of an anonymous couple, figures turned back to the camera, faces hiding behind long hair, a close-up of fingers lightly touching a lover's body. These fragmented bodies are not posing for the photographer but instead are captured at home by a hidden camera, in a bed or walking in a deserted park. These photographs sustain the feeling of intimacy and mystery permeating the stories they illustrate.

A large part of the collected material on LGBT people consists of life-stories which portray non-heteronormativity as a source of personal misfortune. For example, an article entitled "A Lithuanian girl lost herself after being seduced by an American nun working in Vilnius" describes a young Lithuanian woman Evelina and her affair with an American woman temporarily working in Lithuania as a nun³⁹. This text perhaps belongs to the genre of sensational and exotic narrative; however, as it focuses on Evelina's feelings, it also recounts a story of trauma and abuse. In this text the young Lithuanian girl shares the details of her intimate life, emotional distress, anxiety, short-lived happiness and unfortunate ending of a love affair (the American nun after some time left Lithuania, leaving her lover to figure out her sexuality on her own). Evelina recites her story with sadness even though she does not think that she was abused and does not blame her ex-lover. The newspaper also published several psychologists' comments, which identify Evelina as a victim and the American nun as a cunning liar who has harmed Evelina's mental health. The discursive portrayal of the American woman besides her lesbianism emphasises her foreignness. This ethnic difference highlights the contrast between the "victim" and the "perpetrator" even more. Homosexuality here is presented as an unnatural phenomenon which inevitably leads to the tragic ending.

Similar personal stories often make headlines and reveal non-heteronormativity as an exotic and scandalous practice⁴⁰. These texts scandalise

³⁹ A. Urbonaitė, "Vilniuje dirbusios JAV vienuolės suviliota lietuvė prarado save", December 4, 2010, "Lietuvos rytas"

⁴⁰ E. Butrimas, "Santuoka be sekso truko tris dešimtmečius" [Marriage without sex lasted for three decades], January 10, 2010, *Lrytas.lt*; "Motėris patyrė šoką, kai jos vyras po 20 santuokos metų prisipažino 'Aš gėjus'" [A woman shocked when her husband proclaims 'I'm gay' after 20 years of marriage], September 31, 2010, *Alfa.lt*

the everyday lives of LGBT people and their most important concerns. The most frequent foci of these stories are secrecy surrounding their lives, difficulties of sex reassignment, complicated family relationships, unfaithfulness and love affairs.

Criminal news related to LGBT people also frequently reveals private information to the public. For instance, reports about two men who supposedly had sex in a public place describe the location, time and details about this incident⁴¹. These texts are longer and include more details than the accounts of similar events where the people involved are heterosexual⁴². Inadequate dealing with privacy issues in texts on homosexual people is also visible in reports on discrimination against sexual minorities, where the names of people accused or charged with violence are usually not disclosed⁴³. These examples show that sex, especially non-heteronormative sex, is an issue that attracts the most attention from media in Lithuania.

Ironically, while the private details of homosexual couples' lives are often discussed in public, LGBT people are frequently asked to not shout out. The aggressive rhetoric targeted at LGBT people forces them to navigate between the public and the private as they attempt to control the construction of their public image. This was clearly demonstrated in the debate on the popular TV talk show that took place soon after the March for Equality was granted permission⁴⁴. The show gave a platform to both LGBT activists and nationalist and

⁴¹ A. Gurevičius, "Vilniaus policija girtus homoseksualus vidury gatvės užklupo lytinio akto metu" [Vilnius police has caught drunk homosexuals having sex in the middle of the street], May 16, 2011, *Delfi.lt*; A. Gurevičius, "Prokuroras nutraukė vyrų tenkinusių geidulius gatvėje baudžiamąją bylą" [The attorney withdrew the charges of men satisfying their sexual urge on the street], May 28, 2011, *Delfi.lt*

⁴² Ex. "Lytinio akto metu girta porėlė gatvėje išplūdo pasipiktinusią moterį" [A drunk couple cursed a disturbed woman while having sex], July 13, 2011, *Delfi.lt*

⁴³ D. Sinkevičius, "Internete gėjus ir gaidžius mušti raginusio vyro drąsa išgaravo teisme" [The bravery of a man who called to beat up gays and faggots on-line vanished in court], September 21, 2010, *Delfi.lt*; "Nubaustas internete su gėjais susidoroti raginęs gydytojas" [A doctor calling to bash gays on-line penalised], November 25, 2010, *Delfi.lt*

⁴⁴ "Be Grimo" [Revealed], February 2, 2010, TV3. This TV talk show hosts discussions on popular political and social issues inviting politicians and people affected by political decisions. The archive is accessible on-line: <http://www.tv3.lt/webtv>

religious movements. One of the guests, Rokas Žilinskas, a former news anchor and current MP belonging to the populist National Resurrection Party, came out as a gay man but nevertheless opposed the march. He emphasised that, in his opinion, Lithuania was not a homophobic country and he had never experienced or heard of anti-gay hostility. When asked why the majority of Lithuanian homosexual individuals conceal their identities, he stated:

“It’s because your private life is supposed to be private. Why would you need to admit who you sleep with in front of the cameras, in front of the audience? I lead an absolutely comfortable life, I don’t hide this from those who should know – from my relatives, from my friends, from my colleagues. *They* need to know. I shouldn’t lie to *them*, why should I sell out to you and declare this to you?”

Adopting the conservative discourse of anti-LGBT activists, Žilinskas stated that gay rights activism, coming out and marching for equality, imposes homosexuality on ordinary people, whereas it would be better to keep it private. “We all follow our own paths,” he said. “The problem occurs when we want to impose our own way of life on others.” This position was welcomed by the organisers of the protests against the Baltic Pride, while LGBT rights activists called him a coward. After the heated debate, Žilinskas declared that homophobia had been invented by homosexuals and the discussion was pointless. Finally, he ostentatiously shook hands with anti-homosexuality campaign activists and walked off the show.

It should be noted that Žilinskas’ sexual orientation was not unknown before the show. Rumours about it were widespread in the tabloids. Nonetheless, because he “publicly confessed his homosexuality”, as the media put it, Žilinskas moved the debate to the political domain. As a result, he had to either defend homosexuality or submit to the heteronormative order. Ironically, coming out for him was possible only when he opposed gay rights and admitted that nationalism had the right to confine him to his closet. Instead of expressing a political claim for rights and inclusion, his coming out was merely a way of asking people to leave him alone and to legitimise his homosexuality in the eyes of nationalism or, in other words, to withdraw from the category of deviation. This rhetoric does not dominate among the Lithuanian LGBT community;

the emerging gay movement and the Baltic Pride rather indicate the opposite. Nevertheless, the instances of such voluntary public confinement demonstrate how LGBT people “choose” to lead double lives pressured by the homophobic discourse.

THE REPRESENTATION OF LGBT PEOPLE AND STEREOTYPES

It is evident that lately LGBT people have become more active in controlling their own public image. The life-stories of LGBT people already mentioned in this analysis allow for creation of a positive image and for dismantling some stereotypes. LGBT people in their texts and discussions on the radio and television often state that they seek long-term, stable and safe romantic and sexual relationships, that they value the country they live in and seek to become fully accepted as Lithuanian citizens. As they speak about their lives from their own perspective, LGBT people have power over their own representation in the Lithuanian public space. It is especially significant that the visual representation of LGBT people has changed after 2010. The Baltic Pride and its extensive media coverage produced photographs and videos that are not foreign to the Lithuanian contexts and which portray faces that are easily recognisable to Lithuanians including representatives of LGBT and their supporters. Prior to the Baltic Pride many news reports used images portraying LGBT events happening abroad. These images frequently scandalised, sexualised and did not represent the Lithuanian LGBT community. After the Baltic Pride, media coverage of LGBT issues was usually accompanied by photographs taken during the Baltic Pride exhibition, film festival and the March for Equality. These images showed Lithuanians carrying rainbow flags, the leaders of the Lithuanian LGBT organisations, actors, artists, academics and politicians. Even though images from abroad are still being used, more and more authors choose illustrations representing the Lithuanian reality.

Despite these changes, previous stereotypes about LGBT people have not disappeared. In a radio talk show hosting Speaker of Parliament Irena Degutienė, she commented on Baltic Pride and the March for Equality: “Events that

are celebrating the pursuit of hedonistic or bodily pleasures is really unacceptable for me". In the Lithuanian public discourse hedonistic lifestyle is presented as a feature of LGBT people, while the Baltic Pride walk, raising awareness about LGBT needs and concerns and related cultural and social events are seen as a manifestation of this hedonistic culture. In a radio talk show MP Kazimieras Uoka compares various social groups and their visibility:

Host: Why do monks have the right to be visible in a public space, while gays do not?

Uoka: Monks take active part in our society, they promote our traditional lifestyle and do not harm it, pervert it, do not change traditional virtues and we should only support them.

Host: Well, there are different...

Uoka: Wait wait wait... Do monks recruit youth into partying, drugs by force or deception? [...] Next to the physical phenomenon, when people are born into it, there are also all these ways to recruit: by drugs, by lifestyle, money, travels... Just imagine what they can do. And in this way they try to promote their ideology. [...] All their culture is based on sexual relations and their pursuit. It is represented by all these parades, culture... this is, in fact, a hedonistic culture!"⁴⁵

This discussion shows that in a homophobic and stereotypical rhetoric sexual minorities are assigned such qualities as aggressive sexuality, flightiness, drug addiction and asocial behaviour. Among the most popular stereotypes is also the non-compliance of homosexual bodies and behaviours with the gender norms (excessively feminine or masculine behaviour and body), artistic talents and emotional instability⁴⁶. The stereotypes assigned to gays and lesbians differ. For instance, in the TV talk show journalist Laima Lavaste compared:

"Why do lesbian women experience less hostility than gay men? It's because their behaviour is less aggressive, because they are not inclined to demonstrate their private lives, they do not try to make a career out of that, they do not have enormous amounts of money as gays do."⁴⁷

⁴⁵ Talk show "Prie pietų stalo", May 27, 2010, "Žinių radijas"

⁴⁶ Ex. "Septyni būdai atpažinti, ar esi linkęs į homoseksualumą" [Seven ways to discern an inclination towards homosexuality], November 15, 2010, *Alfa.lt*

⁴⁷ Talk show "Valanda su Rūta", April 30, 2010, LNK

Here the invisibility of lesbian women in public space is understood not as an outcome of a complex patriarchal and heterosexist system of oppression but only as a characteristic of this sexual minority.

The representation of different identities in the Lithuanian media is not the same. Texts on homosexuality usually speak about homosexual men, while lesbians, transgender people and especially bisexuals were almost never mentioned. The Baltic Pride was frequently named as a gay men parade or march, while naming of other identities was only complementary and its content was never seriously considered. Out of 1095 collected on-line articles on homosexuality and the Baltic Pride only 352 mention the word “lesbian” and only 150 mention the word “transsexual” or “transgender”. Bisexuals are mentioned only in a few articles. The texts on lesbians and trans people usually belong to the genre of trivial or exotic news and are rarely serious. It is also important to emphasise that while there are several well-known homosexual men in Lithuania – such as the leaders of LGBT organisations Vladimir Simonko and Vytautas Valentinavičius, the singer Ruslanas Kirilkinas, the politician Rokas Žilinskas, – there are no famous lesbians, bisexuals or trans people in Lithuania. This shows that gays, lesbians, trans people and bisexuals are perceived as a united social group which in the media is represented by a young or middle-aged homosexual man. This unequal attention of the media causes a situation in which the specific problems of homosexual women, bisexual and trans individuals are left undiscussed and unknown to society.

LITHUANIAN LGBT COMMUNITY IN FOREIGN MEDIA

The recent events in Lithuania, such as the Baltic Pride and the laws limiting dissemination of information on homosexuality, have been noticed outside of Lithuania. This analysis examines texts that were published on French, German, Polish, Russian and English-speaking websites. This material was not collected systemically, but only the most popular articles were gathered. Nevertheless, this material allows us to see which events are discussed the most often and how the Lithuanian LGBT community is represented abroad.

Similarly to the Lithuanian media, the foreign media paid the most attention to political and social events related to LGBT issues: the Baltic Pride, the process of adoption and amendment of the Law on the Protection of Minors from the Detrimental Effect of Public Information, and propositions to prohibit sex reassignment in Lithuania. However, these statements about Lithuanian events were quite rare, sporadic and brief. Slightly more detailed accounts were usually given in blogs and on LGBT websites.

Only a few texts talk negatively about the Lithuanian LGBT community and the March for Equality. These are mostly texts found on Russian and Polish websites, though some texts were also found on websites in French and English. These texts do not differ from the Lithuanian homophobic rhetoric: they use stereotypical portrayal of sexual minorities and scandalous speech⁴⁸.

The majority of texts describe the Lithuanian situation in the context of religion, emphasising that the influence of the Catholic Church is very important in Lithuania. For instance, one of the articles, whose author is a Serbian student, expresses an opinion that Eastern European countries have a different concept of human rights from the Western European countries⁴⁹. This argumentation explains why Lithuanian citizens do not support the LGBT community and that the Lithuanian government should respect these values and ensure the security of the majority. This type of argument also forms the ground for various fundamentalist groups to apply homophobic rhetoric in the discussion on the Lithuanian LGBT community⁵⁰.

Usually, reports on European websites positively describe LGBT activism and present anti-LGBT activities as antidemocratic. When commenting on the Lithuanian state's decisions that discriminate against LGBT people, European politicians usually emphasise the threat to democracy in the country:

⁴⁸ Ex. "Litwa parada pederastów – prowokacyjna", May 10, 2010, *Piotrskar-ga.pl*; "Литва: Гей победы", July 17, 2010, *Newsland.ru*

⁴⁹ B. Klinkby, "Homophobia in Lithuania", January 25, 2011, *Studentt-hinktank.eu*

⁵⁰ "Lithuania's filthy manner of life", July 25, 2011, *Godhatestheworld.com*, "Le peuple lituanien contre les sodomites provocateurs", May 11, 2010, *Contre-Info.com*

“It is revolting to see right-wing politicians scapegoating gay and lesbian people in Lithuania. The political establishment in that country has dismally failed its people, especially the youth.”⁵¹

“This is a serious blow to democracy and a temporary victory for prejudice and fear in Lithuania. We fully support the appeal by the organisers of the Baltic Pride to challenge yesterday’s Court decision and are hoping that justice will prevail and the March for Equality will go on as planned.” ⁵²

Lithuanian LGBT people and activists are usually described as the victims of human rights violations and as heroic fighters against the homophobic society⁵³. In contrast, anti-LGBT groups, especially the mob protesting against the March for Equality, are usually portrayed as uncivilised and uneducated people, neo-Nazis and skinheads. Some authors call their actions a “homophobic hysteria”⁵⁴.

Lithuania is frequently compared to other countries. It is often stated that while many Eastern European countries become more and more tolerant towards LGBT, Lithuania moves in an opposite direction. The Baltic Review writes: “It appears that the majority of Lithuanians live in a different world to that of Western Europeans, where this problem doesn’t exist at all.”⁵⁵ A similar approach is taken in the documentary “Two Prides, Two Worlds... One Europe” filmed by Belgian director Roland Javornik in 2010. In this documentary, the Lithuanian March for Equality is contrasted with the Belgian Gay Pride that

⁵¹ J. Higgins, a member of the European Parliament, speech in the EP, January 19, 2011

⁵² E. Paradis, the Chair of ILGA, quoted in J. Geen, “Baltic Pride suspended after authorities claim marchers could be hurt”, May 6, 2010, “Pink News”

⁵³ Steve W., “Lithuania’s Pride Despite Molotov Cocktails, Smokebombs and Protests, They Marched”, May 9, 2010, *Care2.com*; L. Jegelevičius, “In Lithuania, an Overdue Crackdown on Online Hate Speech”, May 19, 2011, *Pbs.org*, J. Silberfeld, “Succès de la Baltic Pride à Vilnius, malgré la contre-manifestation”, May 10, 2010, *Yagg.com*

⁵⁴ P. Kenworthy, “Lithuanian gay pride parade defies homophobic hysteria”, May 29, 2010, *Stiff Kittens blog*

⁵⁵ “Homophobic Lithuania must rethink its attitudes”, October 3, 2010, *Baltic Review*

took place the same year. The film dramatically shows the struggle of the Lithuanian LGBT community for its rights and celebrates the relatively successful Belgian event. In similar types of articles, which make a comparative analysis between the East and the West, Lithuania is juxtapositioned with the West and sometimes to other Eastern European countries and in that context presented as backward. These texts are problematic as they present Lithuanian events as sensational, while the struggle for human rights is perceived as a linear process, in which the West in comparison to the East has achieved success. The negative outcome of this discourse is the hierarchy that it creates between the countries as it declares that some of them are more democratic and civilised than others. These texts completely ignore the Western European context of ethnic discrimination and constantly rising problem of nationalism and reassure Old Europe of its moral superiority.

CONCLUSIONS

To be enclosed in a specific discourse means to be objectified as an outsider who is represented without the subject's necessary qualities – feelings or free will⁵⁶. In Lithuania, LGBT people as subjects of discourse are only fragmentally represented in various legal, informational and policy texts, described in documents, news reports and political speeches. All these various texts develop their discussion on homosexuality navigating the boundaries of morality, respectability and privacy, which are not static but constantly in the process of redefinition and reproduction. For instance, homophobic rhetoric identifies homosexuality as the outsider and constantly looks for new justifications for confinement and exclusion of LGBT people from the norms of morality and justice. At the same time, the discourse of human rights rests on the principles of equality and diversity and marks LGBT people as a vulnerable group that requires protection. Finally, the discourse of the Lithuanian LGBT community relies on the

⁵⁶ Zakia Pathak and Rajeswari Sunder Rajan, "Shabbahno", in Judith Butler and Joan W. Scott (red.), *Feminists Theorized the Political*, 1992, New York & London: Routledge, p. 260

belief that visibility, representation and normalisation positively affect the lives of LGBT people and is a way of empowerment.

None of these discourses describing sexual minorities is immune to stereotyping and silencing of the most vulnerable populations. Patriarchal, heterosexist, xenophobic structures of domination have the potential to permeate all texts, even those which are composed by sexual minorities themselves. This analysis does not ask which one of these discourses better represents the Lithuanian LGBT community. It is doubtful that a coherent and realistic representation is possible when LGBT people stay anonymous, invisible and marginalised. However, this analysis shows general patterns of representation and identifies how it has changed prior to and after the first Gay Pride in Lithuanian history.

The organisation of the Baltic Pride and the political events related to it have certainly created new spaces to talk about homosexuality and social issues of LGBT people. This is demonstrated not only by an increase of information on sexual minorities, but also by the quality of this information. This was the first time when the LGBT community ceased to be just an object described by media and “experts” but actively created its own image. This voice of LGBT people is important not only for the formation of a more positive image but even more so because through the active self-creation and public demand of rights they practise those rights and freedoms that are not yet there⁵⁷. It is also important that mobilisation allows society to hear the united voice of LGBT people, to see sexual minorities not only as individuals but as an active and creative civil community. This also encourages many active creators of the public space – politicians, artists, journalists, scientists, – to discuss LGBT issues and actively support LGBT rights. In this context, the attention of foreign media was an especially significant achievement, as the support of the international community did not only ensure the success of the Baltic Pride, but is also shaping the future of cultural and political life of the LGBT community.

Despite the increase in the amount and quality of information on sexual minorities, the main problems of stereotyping and discrimination re-

⁵⁷ Judith Butler, Gayatri Chakravorty Spivak, *Who Sings the Nation State? Language, Politics, Belonging*, 2008, London: Seagull, p. 68

main significant. The media in Lithuania still portrays homosexuality as an unnatural and dangerous phenomenon, scandalises and sexualises LGBT individuals. Too little attention is paid to describing social problems of sexual minorities and effective discussion on their solutions. Also, the most vulnerable members of the LGBT community – women, transgender individuals, older people – remain largely invisible. Public debate rarely escapes the pitfalls of simplistic discussion of the causes of homosexuality, repetition of stereotypes, homophobic myth-making and abstract rhetoric on LGBT rights. All this causes a situation which pressures LGBT individuals to explain themselves, justify their behaviour, publicly discuss their private lives and constantly prove their citizenship, which is always contested in the public space.

The public space is especially significant for LGBT people. It is impossible to fight homophobia and social exclusion without the active participation of sexual minorities in civil society. Events such as Baltic Pride and the increasing visibility of non-heteronormativity are certainly important tools that can help to change negative opinions towards sexual minorities. However, it is important to understand that realistic representation and dignity of LGBT people is not just their own issue. As long as homophobia and sexism flourishes in the dominant public discourses, the responsibility for building understanding and ensuring safety of marginalised and discriminated social groups has to be taken not only by them but also by the whole Lithuanian society.









































Sigita Rukšėnaitė

**MARCH FOR EQUALITY:
LGBT PEOPLE ENJOY THE RIGHT
TO PEACEFUL ASSEMBLY FOR
THE FIRST TIME IN LITHUANIA**

INTRODUCTION

Lithuania's first Baltic Pride, honouring the rights of lesbian, gay, bisexual and transsexual (LGBT) people, took place in Vilnius on 5-9 May 2010. Activities included a film festival, an international conference entitled "Human Rights: Overcoming Fear and Prejudice" and a photography exhibition entitled "Pride and Prejudice". The event drew the attention of politicians, lawyers, activists and the whole society to the situation of LGBT people, violations of their rights in Lithuania and positive changes in the area of protection of LGBT rights, generating discussion on these topics.

The highlight of the week-long event was the March for Equality, which took place on 8 May. The march, which had both political and symbolical significance, became a historical event not only for the LGBT community, but also for the entire Lithuanian society, seeking on the one hand to draw attention to violations of LGBT rights, and on the other hand to celebrate achievements in this field.

Lithuania has ratified the main international agreements in the area of protection of human rights and adopted into its national legislation provisions to ensure equality and non-discrimination, including based on sexual orientation. It is widely accepted that the freedom of self-expression and the right to peaceful assembly are essential elements for an open and democratic state, ensuring that even unpopular minority opinion, which does not violate the rights and freedoms of other people, has the opportunity to be heard. Therefore, LGBT people, just as any other members of society, have the opportunity to enjoy these rights and freedoms without discrimination and illegal, groundless restrictions.

However, the March for Equality received not only support, but also faced hostility shown by a large part of society and politicians in the form of pu-

blic statements, humiliation, provoking hatred towards sexual minorities, comments made on the internet, threats made to the organizers, political pressure, court appeals, attempts to ban the march, and, finally, in the form of a massive counterdemonstration and riot during the event. Even though the Lithuanian Police protected participants of the event and prevented major incidents and encounters, this continuing fight shows the depth and strength of the homophobic attitude of the Lithuanian society.

This article aims to make a deeper analysis of the situation of LGBT rights in Lithuania in light of the right to assembly and to give an overview of the significance of the victory in the case of the March for Equality. In this article we will review and analyze Lithuania's international obligations and national legal provisions that guarantee equal rights irrespective of sexual orientation. Furthermore, we will analyze the right to peaceful assembly and interpret the bases for its restrictions. Finally, we will examine the obstacles which were faced during the organization of the March for Equality and the legal proceedings which were used to try to prevent the event from taking place.

The article is based on the analysis of relative international and national legislation, information in the media and case material.

I. BASICS OF LGBT RIGHTS PROTECTION: PRINCIPLES OF EQUALITY AND NON-DISCRIMINATION

INTERNATIONAL OBLIGATIONS IN THE AREA OF LGBT RIGHTS PROTECTION

Lithuania is a member of many major international organizations, and, seeking to belong fully to the community of democratic states, it must comply with the human rights standards that the member states of these organizations agree upon. Article 135 of the Constitution of the Republic of Lithuania (hereinafter "the Constitution") states that "In implementing its foreign policy, the Republic of Lithuania shall follow the universally recognized principles and norms of international law, shall seek to ensure national security and independence, the welfare of the citizens and their basic rights and freedoms, and shall

contribute to the creation of the international order based on law and justice”¹. Therefore, this obligation is clearly set in the fundamental law of the state.

Ratified treaties form a constituent part of the legal system of the Republic of Lithuania (Art. 138 of the Constitution). Paragraph 2 of Article 11 of the Law on Treaties of the Republic of Lithuania sets out the principle of supremacy of treaties: “if a ratified treaty of the Republic of Lithuania which has entered into force establishes norms other than those established by the laws, other legal acts of the Republic of Lithuania which are in force at the moment of conclusion of the treaty or which entered into force after the entry into force of the treaty, the provisions of the treaty of the Republic of Lithuania shall prevail”².

By joining such organizations as the Council of Europe or the European Union, the state of Lithuania demonstrated its will and intention to belong to the block of Western democratic states, and expressed its approval of international human rights standards³. Today, we may say without hesitation that principles of equality and non-discrimination are conventional and universal human rights principles. However, when we speak about individual groups of people, especially about LGBT people, full application of these standards is avoided by limiting or, in extreme cases, by negating their rights. Even though recognition of LGBT people and protection of their rights is a relatively new process⁴, currently existing principles and norms of international law oblige to recognize the equality of all people.

Firstly, it should be mentioned that the rights of LGBT people are protected from two perspectives of human rights. The first one is based on the right to private life, and the second is known as the right of all people to equa-

¹ Constitution of the Republic of Lithuania // Official Gazette, 1992, No. 33-1014. Internet access: [viewed on: 05-10-2011]

² Law on Treaties of the Republic of Lithuania // Official Gazette., 1999, No. 60-1948. Internet access: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=260053&p_query=&p_tr2= [viewed on: 2011-10-05]

³ Lithuanian membership in international organizations on the Internet website of the Ministry of the Foreign Affairs of the Republic of Lithuania: <http://www.urm.lt/index.php?-1745563413> [viewed on: 2011-09-28]

⁴ World Health Organization crossed out homosexuality from the list of psychological disorders in 1990

lity and non-discrimination, providing the possibility to protect human rights irrespective of, *inter alia*, their sexual orientation.

One of the main objectives of the United Nations (hereinafter “the UN”) is to achieve “human rights and fundamental freedoms for all without distinction as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status are respected and observed”. Article 2 of the Universal Declaration of Human Rights states that “everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”⁵. Even though such a basis for discrimination as sexual orientation is not mentioned, the list of bases in this case is not exhaustive.

In accordance with Paragraph 1 of Article 2 and Article 26 of the International Covenant on Civil and Political Rights (hereinafter “the ICCPR”), the parties to this agreement undertake to ensure equal possibilities to enjoy human rights without distinction of any kind, such as “race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”⁶. Similar protection is guaranteed by Paragraph 2 of Article 2 of the International Covenant on Economic, Social and Cultural Rights (hereinafter “the ICESCR”)⁷.

Even though neither sexual orientation nor sexual identity are distinguished as prohibited grounds for discrimination, the UN bodies and international human rights experts agree that these provisions should be understood to include sexual orientation and sexual identity. In the widely-known decision in the case of *Nicholas Toonen vs. Australia*, the UN Human Rights Committee,

⁵ The Universal Covenant on Human Rights // Official Gazette, 2006-06-17, Nr. 68-2497. Internet access: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=278385&p_query=&p_tr2= [viewed on: 2011-10-05]

⁶ International Covenant on Civil and Political Rights // Official Gazette, 2002-08-02, Nr. 77-3288. Internet access: http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=174848&p_query=&p_tr2= [viewed on: 2011-10-05]

⁷ International Covenant on Economic, Social and Cultural Rights // Official Gazette, 2002-08-02, Nr. 77-3290. Internet access: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=174850&p_query=&p_tr2= [viewed on: 2011-10-05]

supervising the implementation of ICCPR provisions, noted that the non-discrimination bases listed in the Covenant also cover sexual orientation⁸. Despite the fact that this decision deals with aspects of the right to personal life, its recognition of sexual orientation as a ground on which discrimination is forbidden is exceptionally important. Moreover, the UN Committee on Economic, Social and Cultural Rights (hereinafter “the CESCR”), which supervises the implementation of ICESCR provisions, expressed its concern about discrimination on the basis of sexual orientation and confirmed that Paragraph 2 of Article 2 of the ICESCR should be interpreted as a provision covering also sexual orientation⁹.

In General Comment No 20, the CESCR sets out that member states should not only have legislation against discrimination but also make every effort to eliminate discriminatory practices. According to the CESCR, elimination of systematic discrimination requires versatile measures – legislation, policy and programmes – including temporary special instruments. Member states are encouraged to promote public and private stakeholders to change their attitude and behaviour towards people facing systematic discrimination and, upon failure to do so, to apply respective compulsory measures. The CESCR stresses that in case of persistent discrimination against certain groups of people, particular attention should be given to ensuring that officials and other persons observe and implement legal acts and policies in practice¹⁰. Thereby, even though these recommendations are related to the protection of economic, social and cultural rights, they should also be understood as state obligations seeking to eliminate discrimination in any other area.

It should be noted that Article 2 of the Convention on the Rights of the Child also prohibits discrimination and establishes an obligation for states

⁸ *Toonen v. Australia*, No. 488/1992, U.N. Doc CCPR/C/50/D/488/1992 (1994). Internet access: <http://www1.umn.edu/humanrts/undocs/html/vws488.htm> [viewed on: 2011-10-05]

⁹ Committee on Economic, Social and Cultural Rights, General Comment No. 20: Non-Discrimination in Economic, Social and Cultural Rights (Art. 2, Para 2), UN Doc. E/C.12/GC/20, 2 July 2009. Internet access: <http://www2.ohchr.org/english/bodies/cescr/comments.htm> [viewed on: 2011-10-05]

¹⁰ Same as the above.

to ensure the principle of equality: “States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status”¹¹. The Convention on the Rights of the Child may therefore be important in the fight against discrimination of LGBT people on the grounds of sexual orientation, provided that these persons are the child’s parents or legal guardians who live on the territory of a particular state. It is equally important in the fight against child discrimination.

Lithuania is also under the obligation of regional treaties. The Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe (hereinafter “the ECHR”) should be mentioned firstly. Most importantly, the ECHR is the main instrument for the protection of LGBT rights due to it being the treaty in accordance to which member states of the Council of Europe are obliged to ensure fundamental civil and political rights not only for their own citizens, but also for all people under their jurisdiction. Article 14 of ECHR sets forth prohibition of discrimination “on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status”¹². The phrasing of the notion “on other grounds” allows the European Court of Human Rights (hereinafter “the ECtHR”) to expand the list of prohibited grounds for discrimination by the grounds not set forth directly in Article 14. In the case of *Salgueiro Da Silva Mouta vs. Portugal*, the ECtHR stated that sexual orientation is “a concept which is undoubtedly covered by Article 14 of the Convention”¹³ [the ECHR]. Therefore, different treatment of persons on the grounds of their

¹¹ Convention on the Rights of the Child // Official Gazette, 1995-07-21, Nr. 60-1501. Internet access: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=19848&p_query=&p_tr2= [viewed on: 2011-10-05]

¹² European Convention on Human Rights // Official Gazette: 1995-05-16 Nr.40-987. Internet access: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=19841 [viewed on: 2011-10-05]

¹³ *Salgueiro Da Silva Mouta v Portugal*, Appl. No. 33290/96, ECHR, 21 December 1999.

sexual orientation is understood as a violation of the ECHR. Moreover, in the case of *Aleksejev vs. Russia*, the ECtHR repeatedly stated that sexual orientation is included into the list of non-discrimination grounds set forth in Article 14, whereas the right of discretion of Parties to this Convention [the ECHR] on this matter is exceptionally narrow¹⁴.

Another important convention of the Council of Europe is the European Social Charter, which calls for the protection of social and economic human rights. The European Social Charter sets forth that “enjoyment of social rights should be secured without discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, health, association with a national minority, birth or other status”¹⁵. Even though this provision does not point out sexual orientation directly, today it is undoubtedly considered to cover the prohibition of discrimination on the grounds of sexual orientation.

Another important part of obligations come from legal provisions of the European Union. In the fight against discrimination on the grounds of sexual orientation, the legislator of the European Union has invoked various legislative measures. One of the first initiatives of this kind was the 1984 European Parliament Resolution on Sexual Orientation Discrimination at the Workplace, which served as the first acknowledgement that the difficulties faced by homosexual people have to be solved.

However, more important legal steps were taken later, when the Treaty of Amsterdam, which came into force on 1 May 1999, became the first treaty to mention sexual orientation. Article 13 of the Treaty of Amsterdam states that “the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.”¹⁶

¹⁴ *Alekseyev v Russia*, Appl. Nos. 4916/07, 25924/08, 14599/09, ECHR, 21 October 2010.

¹⁵ European Social Charter (revised) // Official Gazette, 2001-06-08, Nr. 49-1704. Internet access: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=42260 [viewed on: 2011-10-05]

¹⁶ Treaty of Amsterdam amending the Treaty of the European Union, the Treaties establishing the European Communities and certain related acts.

In December 2000, the Council adopted Directive 2000/78/EC, establishing a general framework for equal treatment in employment and occupation. The Directive aims to fight discrimination based on religion or belief, disability, age or sexual orientation in occupational or professional areas, and to implement in member states the principle of equal treatment, in accordance to which any type of direct or indirect discrimination is prohibited on the indicated grounds. Also, the Directive obliges member states of the European Union to ensure that judicial and/or administrative procedures for the enforcement of obligations under this Directive are available to all persons who consider themselves wronged by failure to apply the principle of equal treatment to them¹⁷.

After the Treaty of Lisbon entered into force on 1 December 2009, the Charter of Fundamental Rights became legally binding, which resulted in a considerable change in the area of human rights protection, mostly because for the first time, the European Union set out the fundamental rights exercised by European Union citizens in one document. Paragraph 1 of Article 21 of the Charter of Fundamental rights sets forth a direct prohibition of discrimination on the grounds of sexual orientation: “Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited”, and Paragraph 5 of Article 52 establishes that the provisions of the Charter are intended for institutions, agencies and bodies, as well as member states of the European Union when implementing Union law¹⁸.

It is also worth noting the Yogyakarta Principles, published in 2007. These are a set of principles on the application of international human rights

Internet access: http://www3.lrs.lt/pls/inter1/dokpaieska.showdoc_l?p_id=29686 [viewed on: 2011-10-05]

¹⁷ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation. Internet access: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0078:lt:HTML> [viewed on: 2011-10-05]

¹⁸ Charter of Fundamental Rights. Internet access: <http://eur-lex.europa.eu/lt/treaties/dat/32007X1214/htm/C2007303LT.01000101.htm> [viewed on: 2011-10-05]

law in relation to sexual orientation and gender identity, which affirm international standards with which all states must comply¹⁹. The Yogyakarta Principles stress that states have not only to make laws in the area of non-discrimination, but also to apply various policy measures, administrative procedures and education programmes to ensure adequate assistance to people facing discrimination. Despite the fact that these principles are not legally binding, they reflect the provisions of treaties and affirm existing obligations of states to protect human rights.

LAWS OF THE REPUBLIC OF LITHUANIA SETTING FORTH THE NON-DISCRIMINATION PRINCIPLE

The Constitution is the fundamental and most important law of the state, which establishes a democratic form of government, fundamental principles and norms of government and law. The principle of equality and non-discrimination of all people is set forth in Article 29 of the Constitution: “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”²⁰. Therefore, without mentioning sexual orientation separately, this constitutional norm basically affirms the principle of equality and non-discrimination of *all* persons.

Prohibition of discrimination on the ground of sexual orientation is directly established in the Criminal Code of the Republic of Lithuania (hereinafter “the Criminal Code”). Article 169 of the Criminal Code determines criminal liability for those who carry out “actions aimed at hindering, on grounds of sexual orientation, to participate 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”, and Article 170 determines liability for urging hatred against a group of persons or a person belonging thereto on various

¹⁹ Yogyakarta principles. Internet access: http://www.yogyakartaprinciples.org/principles_en.htm [viewed on: 2011-10-05]

²⁰ The Constitution of the Republic of Lithuania // Official Gazette., 1992, Nr. 33-1014. Internet access: [viewed on: 2011-10-05]

grounds, including sexual orientation²¹. Moreover, Point 12 of Paragraph 1 of Article 60 of the Criminal Code sets forth as an aggravating circumstance the situation when “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 [...]”. Because of such a provision of the criminal law, the European Union Agency for Fundamental Rights has made a favourable assessment of Lithuania²².

The Labour Code of the Republic of Lithuania (hereinafter “the Labour Code”) sets out that employment relations are based on certain principles, including “equality of subjects of labour law irrespective of their [...] sexual orientation” (Pt. 4 Par. 1 Art. 2 of the Labour Code). It also establishes that a legitimate reason for termination of employment cannot be, among other reasons, sexual orientation (Pt. 4 Par. 3 Art. 129 of the Labour Code)²³.

Principles of equality and non-discrimination set forth in Article 29 of the Constitution and Point 4 of Paragraph 1 of Article 2 of the Labour Code, respectively, are further elaborated in the Law on Equal Treatment of the Republic of Lithuania (hereinafter “the Law on Equal Treatment”), and in the Law on Equal Opportunities for Men and Women (hereinafter “the Law on Equal Opportunities”).

In Lithuania, the provisions on securing equality between men and women have been established first. On 1 December 1998, the Law on Equal Opportunities for Men and Women was adopted by the Parliament of the Republic of Lithuania, *Seimas*, followed by the establishment of a special supervisory body – Office of Equal Opportunities Ombudsman – on 25 May 1999. After *Seimas* adopted the Law on Equal Treatment on 18 November 2003, the scope of competence of this Office was supplemented with the provisions prohibiting dis-

²¹ Criminal Code of the Republic of Lithuania // Official Gazette., 2000, Nr. 89-2741. Internet access: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=404447 [viewed on: 2011-10-05]

²² Review of EU Agency for Fundamental Rights on LGBT rights. Internet access: http://fra.europa.eu/fraWebsite/lgbt-rights/lgbt-rights_en.htm [viewed on: 2011-10-05]

²³ Labour Code of the Republic of Lithuania // Official Gazette., 2002, Nr. 64-2569. Internet Access: http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=404220 [viewed on: 2011-10-05]

crimination based on sexual orientation and other grounds, and the Office was named Office of Equal Treatment Ombudsman. Thus, since 1 January 2005, the Office has investigated complaints of people who suffered discrimination or harassment based on sexual orientation at work, educational institution or during provision of services.

It is worth mentioning that the Law on Equal Treatment has transposed most part of the aforementioned Employment Directive of the European Union, thus prohibiting discrimination based on sexual orientation. Article 1 of the Law on Equal Treatment sets forth the objective of the Law – to ensure the implementation of human rights laid down in the Constitution, and to prohibit any direct or indirect discrimination based on age, sexual orientation, disability, racial or ethnic origin, religion or beliefs²⁴.

Article 5 of the Law on Equal Treatment establishes that state and local government institutions and agencies must within the scope of their competence ensure that equal rights and treatment are laid down in all the legal acts drafted and passed by them irrespective of sexual orientation and other grounds, and binds these institutions to draft and implement the programmes and measures designated for ensuring equal treatment regardless of sexual orientation and other grounds. At the same time, in accordance to Article 10 of this Law, “any non-compliance or improper compliance with the duties or non-compliance with the prohibitions set by this Law shall constitute a violation of equal treatment”. Therefore, it may be concluded that improper compliance with the requirements of this Law, or improper security of equal treatment regardless of sexual orientation by state or local government institutions, is considered to be a violation of equal treatment.

The Office of Equal Treatment Ombudsman received 18 complaints about discrimination based on sexual orientation in 2007, 8 complaints in 2008, 4 complaints in 2009, and 3 complaints in 2010²⁵. Moreover, the 107-paged an-

²⁴ Law amending the Law on Equal Treatment of the Republic of Lithuania // Official Gazette, 2008-07-05, Nr. 76-2998. Internet access: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=323620 [viewed on: 2011-10-05]

²⁵ Reports of Ombudsman for Equal Treatment: <http://lygybe.lt/?pageid=7> [viewed on: 2011-10-05]

nual report of the Office for the year 2010 holds only a single paragraph about the case and significance of the March for Equality. This shows that despite the prevailing difficult situation of sexual minorities in Lithuania, trust in this Office has decreased. The Equal Treatment Ombudsman often participates in public discussions, drawing attention of the society to certain sensitive issues. However, it has been noted that during these public discussions, even during such important events as Baltic Pride events in 2010, the Ombudsman usually takes a refraining position. This casts doubt on the efficiency of the Office and its ability to promote equal treatment of all people in Lithuania.

Despite the presence of the positively assessed provisions of laws prohibiting discrimination of LGBT persons, essential rights of these persons, such as legal recognition of same-sex marriage (along with the rights marriage entails), are not ensured in Lithuania. Also, the situation of transsexual people remains extremely complicated. In 2007, the ECtHR in the case *L. vs. Lithuania* judged that Lithuania had violated the rights of L. as regards Article 8 of the ECHR²⁶. In accordance with Article 2.27 of the Civil Code of the Republic of Lithuania (hereinafter “the Civil Code”), Lithuania was obliged to adopt bylaws necessary for the implementation of this article²⁷. Article 2.27 of the Civil Code came into force on 1 July 2003. However, until 2007, when the ECHR decision was adopted, the legal basis had not been adjusted. The ECtHR judged that a four-year delay in adopting necessary legal acts cannot be justified and required Lithuania to adopt within a certain timeframe a law regulating sex change procedure. This law on sex change has not yet been adopted, and therefore further violations of human rights may still occur.

STRUGGLE TO LIMIT FREEDOM OF SELF-EXPRESSION: DISCRIMINATORY PROVISIONS OF LAWS

The freedom to express thoughts and beliefs and the right to spread and obtain information are closely connected with the right to peaceful association, this

²⁶ *L. v Lithuania*, App. No. 27527/03, ECHR, 9 November 2007.

²⁷ Civil Code of the Republic of Lithuania // Official Gazette., 2000, No. 74-2262. Internet access: http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=404369 [viewed on: 2011-10-05]

being one means of self-expression. Keeping in mind that spreading information, improving visibility, promoting social discussion and political debate, and raising “inconvenient” questions are generally the main ways to create social change, the freedom of self-expression is exceptionally important for every person, including LGBT persons, fighting for the recognition of their equality and human rights.

While Estonia, France, Germany, the United Kingdom and some other states of the European Union are taking various measures to educate society and change attitudes towards LGBT persons, opposite developments can be seen in Lithuania, calling for suppression and interruption of spreading information related to the rights of LGBT persons and restriction of their freedom of self-expression²⁸. The most apparent examples are certain recently adopted provisions of laws and proposed amendments.

First we shall look at the Law on the Protection of Minors against the Detrimental Effect of Public Information of the Republic of Lithuania (hereinafter “the Law on the Protection of Minors”). Back in September 2007, a provision prohibiting public promotion of homosexuality to minors was proposed as an amendment to this law. However, due to immediate criticism from the international community and the President of the Republic of Lithuania, the law was modified and the prohibition on spreading public information on homosexual, bisexual and polygamous relations to minors present in the first version was changed to other, non-discriminatory provisions.

The amended Law on the Protection of Minors came into force on 1 March 2010. The law includes a provision that prohibits spreading information that “promotes sexual relations” (Pt. 15 Para. 2 Art. 4), and “expresses contempt for family values, encourages the concept of entry into a marriage and creation of a family other than stipulated in the Constitution of the Republic of Lithuania and the Civil Code of the Republic of Lithuania” (Pt. 16 Para. 2 Art. 4)²⁹. The

²⁸ Report of EU Agency for Fundamental Rights: “Homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity in the EU Member States”, 2011. Internet access: http://fra.europa.eu/fraWebsite/research/publications/publications_per_year/fra_homophobia_synthesis_en.htm [viewed on: 2011-10-05]

²⁹ Law amending the Law on the Protection of Minors (Articles 1,2,3,4,5,7,9) // Official Gazette., 2009-12-22, Nr. XI-594. Internet access: <http://www3.lrs.>

Law defines “promotion” as purposeful information that encourages minors to take specific actions or to acquire or change their habits, views, disposition or behaviour (Para. 5 Art. 2), whereas the notion “contempt” is not defined. Marriage is defined in Paragraph 1 of Article 3.7 of the Civil Code, which states that “marriage is a voluntary agreement between a man and a woman to create legal family relations executed in the procedure provided for by law”. However, an exact definition of family is not provided. According to the latest explication of the Constitutional Court of the Republic of Lithuania, family is a broader notion than marriage and marriage is only one of the grounds for forming a family, but only relations between persons of different sexes are taken into consideration³⁰. The aforementioned provisions of the Law on the Protection of Minors clearly aim to limit information, including that on families created not by a man and a woman but between two people of the same sex by mutual agreement. Thus, the aim is basically to limit the freedom to spread information on same-sex families, and the possibility, for instance, to increase minors’ tolerance and change negative attitudes towards same-sex couples.

This law has been criticized both by foreign politicians and by international and national organizations. Such international NGOs as Human Rights Watch and Amnesty International have made numerous statements on its provisions³¹. Also, two Resolutions of the European Parliament were adopted, one on 17 September 2009³², the other on 19 January 2011³³, urging Lithuania not to limit the freedom of self-expression or discriminate against LGBT persons. These

[lt/pls/inter3/dokpaieska.showdoc_l?p_id=362891](http://pls/inter3/dokpaieska.showdoc_l?p_id=362891) [viewed on: 2011-10-05]

³⁰ Decision of the Constitutional Court of the Republic of Lithuania of 28 September 2011 “On State family policy concept”. Internet access: <http://www.lrkt.lt/dokumentai/2011/n110928.htm> [viewed on: 2011-10-05]

³¹ Official statements of “Amnesty International” on Lithuania. Internet access: <http://www.amnesty.org/en/region/lithuania?page=3> [viewed on: 2011-10-05]

³² Resolution of the European Parliament 2009-09-17. Internet access: <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2009-0019&language=EN> [viewed on: 2011-10-05]

³³ Resolution of the European Parliament 2011-01-19. Internet access: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2011-0019+0+DOC+XML+V0//EN> [viewed on: 2011-10-05]

provisions of the Law on the Protection of Minors have not been applied yet, and therefore no precedents have been set. However, an attempt was made to use these provisions to ban the March for Equality in 2010 (see below).

Equally noteworthy is the Draft Amendment of the Code of Administrative Law Violations (hereinafter “the Code of Violations”). In June 2009 Member of Parliament Mr. Petras Grazulis submitted proposals to amend the Code of Violations and the Criminal Code, seeking to establish liability for public promotion of homosexual relations. However, on 19 October 2010 Mr. Grazulis withdrew his original proposal and submitted a new proposal to amend only the Code of Violations. The new article 240(30) would establish administrative liability for public promotion of homosexual relations: “public promotion of homosexual relations shall be punished by a fine from two thousand to ten thousand Litas”³⁴. The cover letter of the draft set out that the aim of the amendment is “to establish that administrative liability should be established for public contempt or encouragement of public contempt of proper and harmonious social values”. It also stated that “the creation of the draft has been impelled by present gaps in the legal system of the Republic of Lithuania, due to which the promotion of harmonious, traditional families is often considered to be groundless and illegal discrimination of sexual minorities based on their sexual orientation”³⁵. The initiator of the draft, Mr. Grazulis has also openly claimed that such a provision is necessary in order “not to issue permits for different marches”.³⁶

Even though this draft is clearly discriminatory on the ground of sexual orientation and restrictive as regards the freedom of self-expression and

³⁴ Draft Law on amending Code of Administrative Law Violations of the Republic of Lithuania (Articles 224 and 259(1), 214(30) No. XIP-2595, 2010-10-19. Internet access: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=383747&p_query=Homoseksuali%F8%20santyki%F8&p_tr2=1 [viewed on: 2011-10-05]

³⁵ Draft Law on amending Code of Administrative Law Violations of the Republic of Lithuania (Articles 224 and 259(1), 214(30) No. XIP-2595, 2010-10-19. Internet access: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=383749 [viewed on: 2011-10-05]

³⁶ Stenograph of *Seimas* extraordinary plenary morning session No. 267, 2010-11-12 *Seimas* session. Internet access: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=385963 [viewed on: 2011-10-05]

possibly the right to peaceful assemblies, during the first hearing on 12 November 2010, *Seimas* decided on a further hearing of the draft: 31 Members of Parliament voted in favour, 7 against, and 21 withheld.³⁷

On 22 April 2011 Mr. Grazulis submitted a new version of the draft XIP-2595(2) with a rephrased original provision, seeking to impose administrative liability for public contempt of constitutional moral values and the concept of family established in the Constitution, as well as organization of events contradicting constitutional moral values (Article 214(30))³⁸. Having eliminated directly discriminating provisions and having approached the formulation of the Law on the Protection of Minors, the draft proposal remains on the agenda of the Member of Parliament and may be heard in the future. Adoption of such amendments may result in the violation of fundamental human rights.

It is noteworthy that on 18 October 2010 a law amending and supplementing individual articles of the Law on the Provision of Information of the Public came into force. The law states that advertising and audiovisual commercial communications may not contain information “manifesting and promoting sexual orientation” (Para. 1 Art. 39).³⁹ On 8 November 2010 the association Lithuanian Gay League raised this question publicly on the Internet portal *delfi.lt*.⁴⁰ According to representatives of the Government, this provision is a technical mistake, which should be corrected.

³⁷ Voting results of *Seimas* session No. 267 (2010-11-12, morning, extra). Internet access: http://www3.lrs.lt/pls/inter/w5_sale.bals?p_bals_id=-9810 [viewed on: 2011-10-05]

³⁸ Draft Law on amending Code of Administrative Law Violations of the Republic of Lithuania (Articles 224 and 259(1), 214(30) No. XIP-2595, 2010-10-19. Internet access: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=397252 [viewed on: 2011-10-05]

³⁹ Law on amendment of Law on Provision of Information to the Public (Articles 2, 5, 19, 22, 25, 26, 28, 31, 32, 33, 34, 35, 37, 38, 39, 40, 41, 42, 44, 47, 48, 49, 50, 52, 54, 34(1), 34(2), 40(1)) // Official Gazette, 2010-10-18, Nr. 123-6260. Internet access: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=382799 [viewed on: 2011-10-05]

⁴⁰ Article “Gay people got angry about advertising censorship. *Seimas* – correct, technical mistake”, 8 November 2010, *Delfi.lt* news, Internet access: <http://verslas.delfi.lt/Media/gejai-pasipiktino-reklamos-cenzura-seimas-teisinasi-technine-klaida.d?id=38310085> [viewed on: 2011-10-05]

Despite possible legal consequences of applying the aforementioned law and legal uncertainty resulting from such a situation, for a long time no specific measures were taken to correct this mistake. On 15 June 2011, Member of Parliament Mr. Stundys submitted draft No. XIP-3225(2), proposing to rephrase this legal provision and include sexual orientation as one of the grounds for non-discrimination.⁴¹ On 16 June 2011 this draft was adopted.⁴²

In conclusion it can be said that even though there is no court practice as regards this legislation, the adoption of such provisions and proposals for discriminatory provisions that have successfully ploughed their way to further hearings at *Seimas* show the homophobic attitude of a large share of politicians. On the other hand, even though during 2010–2011 these initiatives have not been rejected, direct discriminatory provisions do not find their way to approval and are being changed to “milder” forms. This process is clearly influenced by strong and persistent criticism by the international community.

II. RIGHT TO PEACEFUL ASSEMBLY AND GROUNDS FOR LIMITING IT

Peaceful assemblies are an inseparable part of civil activity in a democratic society. In the 20th century this form of representation and protection of one's rights was widely used by workers, labour unions, the movement for women's rights, and the movement for LGBT rights. Marches, parades and pride events do not have a general particular day, but have been held since 1969. In the summer of that year, a several-day riot and protest against the persecution of LGBT people by the police took place in New York, USA. Ever since then, LGBT

⁴¹ Draft Law on amendment of Law on Provision of Information to the Public (Articles 25, 31 and 39) Nr. XIP-3225(2), 2011-06-15. Internet access: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=401445&p_query=&p_tr2= [viewed on: 2011-10-05]

⁴² Law amending the Law on Provision of Information to the Public (Article 25, 31 and 39) // Official Gazette, 2011-06-30, Nr. 78-3797. Internet access: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=402018 [viewed on: 2011-10-05]

actions have had a symbolic meaning. They are meant not only to draw attention to violations of the rights of LGBT persons but also to celebrate positive legal and political changes in the recognition and protection of their human rights.

However, the implementation of the freedom of self-expression and the right to peaceful assemblies often becomes complicated to LGBT rights activists. In its summary of developments in 2008–2010 as regards ensuring LGBT persons' right to peaceful assemblies, the European Union Agency for Fundamental Rights states that during the two-year period positive tendencies have been noticed during the organization of pride events across Bulgaria, Poland and Romania, whereas in Lithuania and Latvia the situation is still problematic.⁴³

The right to peaceful assembly is an exceptionally important civil right, which ensures free self-expression and participation in the state and society, as well as democracy of the state in general. This right is related to and based on political and social values of the democratic society.⁴⁴ The right of self-expression is ensured by all fundamental international, regional and national instruments for human rights protection.

In its Decision on 7 January 2000, the Constitutional Court stated that the establishment of the freedom of assembly in the Constitution means that it is considered to be one of the fundamental human freedoms and values of the democratic society, an inseparable indication of the democratic form of government, and a significant precondition for becoming an open, just, harmonious civil society and legal state.⁴⁵ At the same time, the ECtHR defines the

⁴³ Report of EU Agency on Fundamental Rights: "Homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity in the EU Member States", 2011. Internet access: http://fra.europa.eu/fraWebsite/research/publications/publications_per_year/fra_homophobia_synthesis_en.htm [viewed on: 2011-10-05]

⁴⁴ Gomien D. Short guide to the European Convention on Human Rights (3rd edition). Council of Europe, 2005. P. 117. Internet access: www.humanrights.coe.int/aware/GB/publi/materials/1062.pdf [viewed on: 2011-10-05]

⁴⁵ Decision of the Constitution Court of the Republic of Lithuania "On Paragraph 2 of Article 6 of Law on Meetings of the Republic of Lithuania", 7 January 2000. Internet access: <http://www.lrkt.lt/dokumentai/2000/n000107.htm> [viewed on: 2011-10-05]

democratic society as a pluralistic, tolerant and broadminded entity⁴⁶. Along with those already mentioned, the right to peaceful assembly is also embedded in a number of international and national legal acts.

Paragraph 1 of Article 20 of the Universal Declaration of Human Rights states that “everyone has the right to freedom of peaceful assembly and association”, and in accordance with Paragraph 2 of Article 29 in the exercise of their rights and freedoms (including the freedom of assembly), everyone should be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and general welfare in a democratic society.⁴⁷ A similar explanation of the right to peaceful assembly is given in Article 21 of the ICCPR: “The right of peaceful assembly shall be recognized. No restriction may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others”.⁴⁸

Article 11 of the ECHR also guarantees the right to peaceful assembly. Paragraph 1 of Article 11 of the ECHR states: “Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests”. Paragraph 2 of the same Article sets forth the grounds for restrictions: “No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the

⁴⁶ Explication of ECtHR in cases: *Young, James and Webster v. The United Kingdom*. Appl. No. 7601/76, 7806/77, ECHR, 13 August, 1981; *Chassagnou v. France*, Appl. Nos. 25088/94, 28331/95 and 28443/95, ECHR, 29 April 1999.

⁴⁷ The Universal Declaration on Human Rights // Official Gazette, 2006-06-17, Nr. 68-2497. Internet access: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=278385&p_query=&p_tr2= [viewed on: 2011-10-05]

⁴⁸ International Covenant on Civil and Political Rights // Official Gazette, 2002-08-02, Nr. 77-3288. Internet access: http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=174848&p_query=&p_tr2= [viewed on: 2011-10-05]

protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restriction on the exercise of these rights by members of the armed forces, of the police or of the administration of the State”.⁴⁹ As was indicated in the ECtHR case *Handyside vs. the United Kingdom*, the freedom of self-expression “forms one of the main grounds of democratic society, and one of the main conditions for the evolution and development of every person”.⁵⁰

Paragraph 1 of Article 12 “Freedom of assembly and of association” of the Charter on Fundamental Rights states: “Everyone has the right to freedom of peaceful assembly and to freedom of association at all levels, in particular in political, trade union and civic matters, which implies the right of everyone to form and to join trade unions for the protection of his or her interests”.⁵¹

Similar regulation is established in the legal system of the Republic of Lithuania. Article 36 of the Constitution holds: “Citizens may not be prohibited or hindered from assembling unarmed in peaceful meetings. This right may not be limited otherwise than by law and only when it is necessary to protect the security of the State or society, public order, people’s health or morals, or the rights and freedoms of other persons”. This provision basically corresponds to the standards of international human rights in the aforementioned international treaties.

The right to peaceful assembly is specified in the Law on Meetings of the Republic of Lithuania (hereinafter “the Law on Meetings”). Article 1 of the Law on Meetings sets forth the aim of the Law: “This Law shall lay down conditions of ensuring the constitutional right of the citizens of the Republic of Lithuania to assembly unarmed in peaceful meetings and the procedure for protecting national security, safety, public order, public health and morals, the rights

⁴⁹ Convention on the Protection of Human Rights and Fundamental Freedoms // Official Gazette: 1995-05-16 Nr.40-987. Internet access: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=19841 [viewed on: 2011-10-05]

⁵⁰ *Handyside v. the United Kingdom*,. Appl. No. 5493/72, ECHR, 7 December 1976.

⁵¹ Charter of Fundamental Rights. Internet access: <http://eur-lex.europa.eu/lt/treaties/dat/32007X1214/htm/C2007303LT.01000101.htm> [viewed on: 2011-10-05]

and freedoms of other persons when organizing meetings, as well as the liability for violations of this Law”. Article 8 of the Law on Meetings also lists prohibited meetings, including the following cases: “1) hold arms [...]; 2) drive vehicles in a way which causes threat to road safety [...]; 3) are naked or otherwise cynically violate morals with their appearance or things they possess or demonstrate; 4) during meetings evidently instigate to violate or violate the Constitution or laws of the Republic of Lithuania by speeches they deliver, posters, slogans, audiovisual measures and other actions; 5) demonstrate the flag or coat of arms of Nazi Germany, the USSR or the Lithuanian SSR [...]”.⁵²

Based on the above, it is clear that the right to peaceful assembly is not absolute. It may be restricted on lawful grounds, with the aim of protecting such fundamental rights as security, health, morals, public order, rights and freedoms of other persons. It is important to note that the provisions on the basis of which these restrictions are applied have to be clearly stated in laws and proportional to the aim to be achieved, i.e. they should not negate the very essence of the right to peaceful assembly or restrict it more than necessary in the democratic state.

In its Decision of 7 January 2000, the Constitutional Court notes that “the legislator may not go beyond the limits of implementation of the freedom of association set forth in Paragraph 2 of Article 36 of the Constitution in deciding upon which meetings are prohibited”. The list of prohibited meetings has to be exhaustive, and it cannot be interpreted expansively. It cannot be prohibited to organize meetings which are not directly indicated in the Law, provided that they satisfy the requirements of place (Para. 3 and 4 Art. 6 of the Law) and time (Art. 7) as set forth in the Law on Meetings”⁵³. Later on, the Constitutional Court explains that “the head of the executive body of a municipality council or a person authorized by him, making a decision to refuse to issue a permit for the organization of a meeting, is bound by the grounds of restriction of the

⁵² Law on Meeting of the Republic of Lithuania // Official Gazette., 1993, Nr. 69-1291. Internet access: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=323786 [viewed on: 2011-10-05]

⁵³ Decision of the Constitution Court of the Republic of Lithuania “On Paragraph 2 of Article 6 of Law on Meetings of the Republic of Lithuania”, 7 January 2000. Internet access: <http://www.lrkt.lt/dokumentai/2000/n000107.htm> [viewed on: 2011-10-05]

freedom of assembly, indicated in Paragraph 2 of Article 36 of the Constitution: upon making such a decision, he should give a clear explanation on how exactly the meeting would threaten safety of the state or society, public order, personal health or morals, or rights and freedoms of other persons”⁵⁴.

In a series of cases, the ECtHR explicated that the state has no right to limit the right to peaceful assembly by not issuing a permit for an event, by refusing to provide police assistance necessary to meeting participants or by not implementing the positive obligation to protect the users of this right. In the case of *Stankov and the United Macedonian Organization Ilinden vs. Bulgaria*, the ECtHR stated that the majority opinion may not be protected on the counts of the minority opinion or beliefs irrespective of the unpopularity of the latter.⁵⁵ In the case of *Plattform “Ärzte für das Leben” vs. Austria*, the ECtHR explained that the state must ensure the protection of persons using the right to assembly.⁵⁶ According to the ECtHR, people or groups from the opposition may not be popular or may even cause irritation by holding a meeting and due to ideas distributed through the meeting. Nevertheless, participants should have an opportunity to gather peacefully, without fear of becoming victims and targets of opponents’ violence. Such fear may prevent people representing particular ideas or interests from openly expressing their opinion and beliefs on controversial topics. Therefore, in a democratic society, the right to organize an opposing demonstration may not have a suppressive impact on a peaceful assembly⁵⁷. However, states are left with relatively broad discretion to evaluation and decide whether restriction is necessary and proportionate.

In the important case of *Bączkowski et al. vs. Poland*, the ECtHR decided that Warsaw Municipality in Poland violated Articles 11, 13 and 14 by

⁵⁴ Same as the above.

⁵⁵ *Stankov and the United Macedonian Organization Ilinden v. Bulgaria*, Appl. No. 29225/95, 29221/95, ECHR, 02 October 2001.

⁵⁶ *Plattform “Ärzte für das Leben” v. Austria*, Appl. No. 10126/82, ECHR, 21 June 1988.

⁵⁷ Gomien D. Short guide to the European Convention on Human Rights (3rd edition). Council of Europe, 2005. P. 118-119. www.humanrights.coe.int/aware/GB/publi/materials/1062.pdf [viewed on: 2011-10-05]

banning a minority event in Poland in 2005⁵⁸. The ECtHR noted that democracy does not mean the simple dominance of the majority opinion, but rather it means that to ensure democratic pluralism, the state has positive obligations to ensure the effective use of the right to peaceful assembly by people who have unpopular beliefs or belong to a minority. In this case, the ECtHR also noted that an essential precondition for the effective use of this right is the legality presumption, which is negated by refusing to give an official permit for organization of an event and, as a result, by preventing the minority from participating in the meeting. Such negative consequences to the freedom of assembly are not avoided if legal measures for the protection of this right are taken only after the planned date of the meeting.

Equally important is Recommendation No. CM/Rec (2010) 5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender equality. In Paragraphs 14-16 of the Annex to the Recommendation, member states are recommended to ensure that the right to freedom of peaceful assembly can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity. Member states are also encouraged to ensure that law enforcement authorities take appropriate measures to protect the human rights of LGBT persons taking part in peaceful demonstrations from any attempts to unlawfully disrupt or inhibit the effective enjoyment of their right to freedom of expression and peaceful assembly. Further, member states are encouraged to take appropriate measures to prevent restrictions on the effective enjoyment of the rights to freedom of expression and peaceful assembly resulting from the abuse of legal or administrative provisions, for example, on grounds of public health, public morality and public order.⁵⁹ The Recommendation is exceptionally important in interpreting the content of provision of the ECHR.

⁵⁸ *Bączkowski and others v Poland*, Appl. No. 1543/06, ECHR, 3 May 2007.

⁵⁹ Recommendation of the Committee of Ministers of the Council of Europe CM/Rec(2010)5, 2010-03-31. Internet access: <https://wcd.coe.int/wcd/ViewDoc.jsp?id=1606669&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383> [viewed on: 2011-10-05]

PREVIOUS INSTANCES OF LIMITATIONS DURING 2006–2009

Several substantial attempts have been made to limit the freedom of self-expression and the right to peaceful assembly of LGBT persons in Lithuania from 2006. The first such attempt happened in February 2006, when the exhibition of Ugnius Gelguda's photography titled "Traditional and Non-traditional Families" was banned in the town of Juodkrante, Lithuania. The main motive behind this was that some of the photographs in the exhibition portrayed gay and lesbian relations "as a norm", violating the law of the Republic of Lithuania, which sets forth that marriage may only be concluded between a man and a woman⁶⁰. In this case the Ombudsman for Equal Treatment detected a violation of equal treatment.

The year 2007 was announced Year of Equal Opportunities for All in the European Union, including Lithuania, during which numerous activities promoting non-discrimination and equal treatment were organized. Not all of these activities went smoothly. The first incident happened in May 2007, when the association Lithuanian Gay League contracted social advertisements on Vilnius and Kaunas trolleybuses in order to encourage tolerance towards homosexual employees. Trolleybuses with such social advertisements never reached the streets. This situation was explained first by the refusal of drivers to conduct trolleybuses with such advertisements, and then a sudden fault in the trolleybuses was announced⁶¹. The then Mayor of Vilnius Juozas Imbrasas publicly declared that he does not approve of "public demonstration of homosexual ideas in Vilnius".⁶²

⁶⁰ Article "Gay photography caused scandal" (LT), 2006-02-24. ve.lt. Internet access: <http://www.ve.lt/naujienos/kultura/kulturos-naujienos/geju-fotografijos-sukele-skandala-398264/> [viewed on: 2011-10-05]

⁶¹ Internet articles: <http://www.delfi.lt/news/daily/lithuania/vilniaus-troleibusai-kratosi-homoseksualu-reklamos.d?id=13202224>; <http://www.3sektorius.lt/?list=7&arch=1&data=2007%2005&content=483>; [viewed on: 2011-10-05]

⁶² Article "Sostinės savivaldybė nepritaria homoseksualių reklamai ant troleibusų", 2007-05-15. zebra.lt. Internet access: <http://www.zebra.lt/lt/naujienos/lietuva/sostines-savivaldybe-nepritaria-homoseksualu-reklamai-ant-troleibusu-99663.html> [viewed on 2011-10-05]

During the same month, “the tolerance truck” supported by the European Union and travelling across Europe was not allowed to stop in Vilnius. Among other activities, the event was supposed to include spreading the rainbow flag in the city centre and distributing information leaflets on equal treatment of homosexual people. The request to organize this peaceful public event was denied.⁶³

On 25 October 2007 the public event “We Are for All Colours of Life” was also banned in Vilnius. The plan was to spread a symbolic rainbow flag in the Town Hall Square in connection with the annual conference of the international organization ILGA-Europe, which was being held in Vilnius. However, a permit for this was not issued. The decision was appealed against, but the organizers lost the case. However, the court’s decision left many reasonable doubts as to whether the provisions of international and national laws had been applied correctly.⁶⁴

During the period of 2008–2009, bigger public events to commemorate specifically the rights of LGBT persons were not organized in Lithuania.

III. MARCH FOR EQUALITY: LEGAL AND POLITICAL OBSTACLES AND ACHIEVEMENTS

As you can see from the incidents of limitation mentioned above and from the political atmosphere which was illustrated by some attempts to amend laws, a rather distinct homophobic attitude among a large share of politicians still remains in Lithuania, and the ambition to limit LGBT freedoms of self-expression and peaceful assembly still exists. Therefore, it was easy to foresee that the March for Equality would face obstacles and that it would need to overcome some legal and political barriers.

⁶³ Article “M.A.Pavilionienė palieka homofobiškus libdemus”, 2007 gegužės 16 d., delfi.lt. Internet access: <http://www.delfi.lt/news/daily/lithuania/mapavilioniene-palieka-homofobiskus-libdemus.d?id=13218832> [viewed on: 2011-10-05]

⁶⁴ More information: http://www.atviri.lt/index.php/naujienos/homoseksualiu_asmenu_teises_ir_realijos_lietuvoje/2063 [viewed on: 2011-10-05]

PROBLEMATIC NEGOTIATIONS ON THE VENUE

With over three months to go before the planned Baltic Pride events, on 22 January 2010 the association Lithuanian Gay League submitted to Vilnius City Municipality a request to organize the March for Equality in Vilnius on 8 May of the same year. In their request, the organizers indicated the place of the planned event – Rudninku street in the centre of Vilnius.

The request was analyzed and discussed by the Vilnius City Municipality commission responsible for coordination of events in its meeting on 26 January, which was also attended by the organizers. It was decided to agree to organize the march on 8 May, changing the venue from Rudninku str. to the parking area next to Vilnius Concert and Sports Arena (Rinktines str. and Olimpieciu str.). Such a decision was made by the representatives of the Municipality due to difficulties in coordinating traffic and ensuring security within the premises of the originally proposed venue. When the organizers suggested four alternative march routes, none of them were approved due to issues related to coordination of traffic and public security or to the venues already being reserved on the said date.

On 17 February, the organizers were informed that Vilnius City Municipal Government Administration had received an official letter from the Cultural Heritage Department under the Ministry of Culture disallowing use of the venue next to Vilnius Concert and Sports Arena for mass events and requesting to seek another venue for the event, based on Paragraph 7 of Standard Rules of Visiting Cultural Heritage Objects belonging to the State and Municipalities approved by the Order of the Minister of Culture of the Republic of Lithuania No IV-237 of 9 June 2005. It was determined that this venue is part of the cultural heritage object Vilnius Snipiskes Old Jewish Cemetery. The organizers were invited to attend new negotiations to find a venue for the event. On 20 February, the Municipality issued an Order by which a new location for the march was approved. The new venue was situated in close proximity to Olimpieciu str., which, as it turned out later, borders with the Cemetery.

Disagreement on the venue of the event continued without further notification about it to the organizers. Therefore, on 8 March the organizers on their own initiative addressed the Cultural Heritage Department under the Mi-

nistry of Culture with an inquiry on the suitability of the venue for the March for Equality in the provided location. On 10 March, responding to the inquiry the Cultural Heritage Department informed the organizers that plans of the territory of the event had not yet been received from the Municipality (the request was sent out on 2 March), but that they did not approve of the indicated location. Moreover, the Department drew the attention of the organizers to the fact that in accordance with Article 3 of the Law on Public Administration, public administration bodies are obliged to follow the “one window” principle in their activities; therefore the Municipality should solve the issue of event organization possibilities on its own initiative together with interested institutions without obliging the applicant to undertake this on their own.

Seeking to avoid further misunderstandings, on 14 April the organizers made an additional inquiry on organizing the event in yet another location (Upes str.). On 23 April the permission to organize the march in Upes str. was issued.

It is noteworthy that the first request to organize the event was submitted on 22 January, and the final permission was issued only on 23 April, meaning that the selection procedure for the event location took three months in the Municipality. For comparison, in accordance with Article 10 of the Law on Meetings “a notification about organization of a meeting must be considered *no later than within 3 working days* from its receipt and no later than 48 hours before the beginning of a meeting”.

ATTEMPT TO BAN THE MARCH – STATEMENT FROM POLITICIANS

On 10 March 2010, 53 Members of *Seimas*, the majority belonging to the governing coalition, signed a petition to the Prosecutor General’s Office of the Republic of Lithuania asking to take necessary actions to protect minors, public interest and security, which would likely be violated by the March for Equality to be organized on 8 May 2010.

According to the signatories of the petition, such a march would violate Points 15 and 16 of Paragraph 2 of Article 4 of the Law on the Protection of Minors, which came into force on 1 March 2010. The indicated Points determine that public information that expresses contempt for family values or promotes

sexual relations and a concept of marriage and formation of family other than that stipulated in the Constitution and the Civil Code may be detrimental to the mental or physical health and the physical, intellectual, mental or moral development of minors.

The petition claimed that “the march itself and its content should be considered as promotion of sexual orientation of the Lithuanian Gay League, their members, as well as other members of the march, promotion of sexuality and sexual relations, and distribution of a positive attitude towards non-traditional family”, thus violating the aforementioned Points of the Law on the Protection of Minors.

Furthermore, references were made to Article 38 of the Constitution, the Family Policy Concept approved by the Decision of *Seimas* No. 38 of 3 June 2008, and data regarding the Catholic Church in Lithuania, claiming that such a march would scorn the values based on the moral principles of the majority and the traditional family as it is understood by the Catholic part of the society. Finally, the petition stated that the march may provoke opposition and riots in the society, which may result in an imminent threat to its security.

It is interesting that in the petition, the signatories reminded about the decisions of the Ombudsman of Equal Treatment and of the court made in 2008 after the ban on organizing the public event “For Diversity. Against Discrimination”. No violations were detected by these institutions.

This petition was immediately criticised by the international organization Amnesty International, according to which the members of *Seimas* who signed this document clearly demonstrated homophobic beliefs, which had led them during the adoption of the Law on the Protection of Minors, with the aim of ending all discussions about homosexuality and the freedom of self-expression of LGBT persons.⁶⁵

The Prosecutor General’s Office of the Republic of Lithuania refused to accept the petition for further protection of public interest, because it was decided that the request made by member of the political party *Tvarka ir teisingumas*

⁶⁵ Report of “Amnesty International”. Internet access: <http://www.amnesty.org/en/library/info/EUR53/002/2010/en> [viewed on: 2011-10-05]

gumas [Order and Justice] Mr. Grazulis and 52 other members of *Seimas* did not have sufficient legal ground.⁶⁶

Despite the fact that the petition of the members of *Seimas* is now considered to have been more of a political rather than legal step, it became one of the main steps towards the Prosecutor General's actions in addressing the court (see below). Further, this petition clearly reflects the general homophobic disposition of the majority of politicians and shows the general attitude towards sexual minorities in Lithuania.

LITIGATION ON THE MARCH FOR EQUALITY

With less than a week to go before the march, on 3 May 2010 Member of Kaunas City Municipality Council Mr. Stanislovas Buskevicius submitted a request to Vilnius County Administrative Court to revoke Points 1-4 of the Order of Vilnius City Municipality Government Administration No. 40-352 of 23 April 2010 regarding permission to organize the March for Equality. He also submitted a request to impose an interim measure, namely to suspend the aforementioned points of the Order until the Court Decision comes into force. Paragraph 1 of Article 71 of the Law on Administrative Proceedings of the Republic of Lithuania sets out that such a measure may be secured at any stage of the proceedings if implementation of the final Court Decision is considered to become harder or impossible otherwise.

Mr. Buskevicius's request was based on the idea that the March for Equality may provoke disorder amongst Lithuanian people who have opposing views and beliefs on the issue. He claimed that the march may "deeply and hurtfully offend Lithuanian families who treasure such family values as honour, loyalty, fertility, human dignity". He also noted that the march may violate morals, as well as rights and freedoms of other people. The only way to prevent that from happening would be to ban the march and impose an interim measure. However, Mr. Buskevicius's request does not hold any information on how exactly the

⁶⁶ Article "Prokuratūra atmetė Seimo narių prašymą stabdyti gėjų eitynes", 2010 balandžio 7 d., delfi.lt. Internet access: <http://www.delfi.lt/news/daily/lithuania/prokuratura-atmete-seimo-nariu-prasyma-stabdyti-geju-eitynes.d?id=30816555> [viewed on: 2011-10-05]

march would violate the aforementioned values, nor does it give any supporting evidence or arguments; the formulation is very abstract and hypothetical.

On the same day, 3 May 2010, an identical request was submitted to the Court by the Prosecutor General Mr. Raimondas Petrauskas on the Order of Vilnius City Municipality Government Administration No. 40-352 of 23 April 2010 giving permission to organize the March for Equality. He also submitted a request to impose an interim measure, namely to suspend the effect of the aforementioned Order permitting the march. In his request, the Prosecutor General indicated that his aim was to protect public interest and public safety. This request was based on statistical comparative data: the number of opened pre-trial investigations under Article 170 of the Criminal Code on alleged cases of urging hatred against homosexual persons, the majority of which were committed using the means of the Internet.

In his request, the Prosecutor General also claimed that there was data suggesting that radical groups were planning to protest against the March for Equality. Therefore, there were grounds to believe that the State would not be able to ensure public safety. The Prosecutor General also indicated that without imposing the interim measure, it would be impossible to implement the Court Decision later.

Vilnius County Administrative Court Ruling

On 5 May 2010, Vilnius County Administrative Court accepted both requests for further proceedings and imposed an interim measure suspending Points 1-4 of the Order of Vilnius City Municipality Government Administration No. 40-352 of 23 April 2010 regarding permission to organize the March for Equality on 8 May.

As justification for the suspension the Court stated that it would later be impossible to restore past status, and the possibly violated rights and interests of other people, protected by law, could not be protected once the march had already taken place. It also stated that imposing such a measure would not be an obstacle to organizing the march at a later time, provided that the Court finds the Order of Vilnius City Municipality Government Administration to be lawful and justified. Having evaluated all the evidence present in the case, the Court concluded that imposing such an interim measure, as set out in Point 3 of

Paragraph 2 of Article 71 of the Law on Administrative Proceedings, was adequate for the aim to be reached and did not violate the principle of proportionality, the balance of interests of the Parties to these proceedings or public interests.

On the same day, the organizers of the event appealed to the Supreme Administrative Court of Lithuania (hereinafter “the SACL”) asking to repeal the Vilnius County Administrative Court Ruling of 5 May 2010 as non-lawful and non-justified.

In their appeal, the organizers underlined that state or public safety, public order, personal health or morals, or other principles of protection of personal rights and freedoms are the only grounds for limiting personal freedom of assembly, and therefore other grounds are to be declared legally irrelevant. Based on the explications made by the Constitutional Court of the Republic of Lithuania in its Decision of 7 January 2007, the event organizers stated that the claimants had legal obligation to provide specific factual evidence of the grounds for limiting freedom of assembly. They also contested the arguments provided in the Prosecutor General’s request. According to the organizers, the Prosecutor General did not provide any specific evidence in these proceedings –no persons or groups were identified as likely to initiate provocations, and no pre-trial investigations had been started under Paragraph 3 of Article 170 of the Criminal Code of the Republic of Lithuania on inciting violence on grounds of sex, sexual orientation, race, nationality, language, descent, social status, religion, convictions or views. A separate complaint noted that the Prosecutor General’s request held information which did not correspond to publicly available information, namely statements made by the Mayor of Vilnius Mr. Navickas⁶⁷ on 5 May 2010, Deputy Police Commissioner General Mr. Skvernelis⁶⁸ on 4 April 2010, and Head of Vilnius County Police Headquarters Mr. Lančinskas⁶⁹. In their statements these officials said that the Police are ready to ensure public order and security

⁶⁷ Internet access: <http://www.alfa.lt/straipsnis/10355592/?Geju.eitynes.pakibo.ant.plauko=2010-05-05> [viewed on: 2011-10-05]

⁶⁸ Internet access: <http://www.diena.lt/naujienos/miestas/policija-dar-karta-patikino-esanti-pasirengusi-geju-eitynems-276690> [viewed on: 2011-10-05]

⁶⁹ Internet access: <http://www.delfi.lt/news/daily/lithuania/vilniaus-policijos-vadovas-policija-yra-pasirengusi-uztikrinti-viesaja-tvarka-per-eitynes.d?id=318381651> [viewed on: 2011-10-05]

of participants and guests in the March for Equality. The organizers noted that during preparations for the march, they actively cooperated with Vilnius City Municipality and the Police from the very beginning, and therefore safety of the event was ensured.

The separate complaint noted that Mr. Buskevicius's request did not hold information on the grounds for limiting the freedom of assembly. Also, there was no evidence of any threat caused by the March for Equality to the values indicated in Point 2 of Paragraph 1 of Article 11 of the Law on Meetings.

The organizers also pointed out that in accordance with the practice of the Supreme Administrative Court of Lithuania, several factors need to be considered in making a decision to impose an interim measure, such as the nature of the request, factual grounds, realization of rights, impact on other persons, adequacy of the measure in attaining the aim, principle of proportionality, balance of interests of the parties to the proceedings and public interests. At the same time the organizers expressed their doubts about the data and their significance.

Based on the explications of the ECtHR and the explications of the Constitutional Court of the Republic of Lithuania made in its Decision of 7 January 2007, the event organizers stressed the importance of the right of assembly in a democratic society, and pointed out that these limitations have to be proportionate⁷⁰. According to the organizers, the application of the interim measure is not temporary and basically prohibits organizing the planned March for Equality, and such restriction of the right of assembly is disproportional to the aim to be attained.

Therefore, by their complaint, the event organizers sought to show that imposition of the interim measure is not justified, its implementation is not necessary in the democratic society, and is disproportional to the aim to be attained.

In his response, the Prosecutor General requested that the complaint be dismissed, stating that without application of the interim measure there would be a real threat to human health. The Prosecutor General based his po-

⁷⁰ Based on explication of the European Court for Human Rights in cases: *Refah Partisi et al vs. Turkey*; *Christian Democratic Peoples Party vs. Moldova*; *Bączkozvski et al vs. Poland*; *Young, James and Webster vs. United Kingdom*; *Chassagnou et al vs. Prance*.

sition on the fact that approximately 350 persons planned to participate in the march with a total of 800 officers ensuring their security. Also, the Prosecutor General stated that the organizers' arguments did not correspond with the statements of the Deputy Police Commissioner General Mr. Skvernelis and Head of Vilnius County Police Headquarters Mr. Lancinskas, made available in public on 4 April 2010. He also pointed out that the circumstances indicated in the request had emerged later. Also, some of the circumstances are not known to third parties, because they are considered to be a state secret.

Ruling of the Supreme Administrative Court of Lithuania

As the Ruling of Vilnius County Administrative Court was not appealed against in full capacity by the separate complaint, the SACL assessed the lawfulness and justification of the Ruling in the given scope, but provided some very important explications.

The SACL noted that in making a decision on imposing an interim measure, not only the threat to the implementation of a future ruling but also restoration of violated human rights and lawful interests should be taken into consideration. The Court made the conclusion that the principle of equity requires that in making such a decision, the interests of all parties to the proceedings as well as other circumstances have to be taken into consideration.

It is important to note that the SACL has also explicated that Article 11 of the ECHR, establishing the right to assembly has to be explicated *inter alia* with Recommendation No. Rec (2010)5 of the Committee of Ministers of the Council of Europe of 31 March 2010 on measures to combat discrimination on grounds of sexual orientation or gender identity and the ECtHR practice, namely the *Bączkowski et al. vs. Poland* decision of 3 May 2007.

The SACL noted that the Court of first instance did not take into account the situation which would appear if the interim measure was imposed and the effect of the Order in question stopped, and the appealed Court ruling of 8 May 2010 did not impose any legal consequences, even if the Court ruling was recognized lawful and justified, i.e. it would be equally impossible to restore the previous situation. The SACL made the conclusion that the argument of the Court of

first instance regarding temporary suspension of the Order in question would not make any obstacles for organizing the march later in time, because the Order in question would not be considered as a basis for the organization of the march.

According to the SACL, the interim measure under these circumstances, meaning that the Court Ruling would not take effect up until after the planned date of the march, would mean a limitation of the freedom of assembly, which would result in accordance with the aforementioned ECtHR case *Bączkowski et al vs. Poland* negation of the main condition for effective use of the freedom of assembly – the presumption of legality. In general, it would prevent minority groups from participating in the meeting.

The Court also made the conclusion that non-application of the interim measure would not cause any extensive harm the restoration of which would be complicated (or impossible), because the Prosecutor General did not submit any such data or evidence as to make conclusions on negative consequences or their scope, or the State's incapacity to implement its positive obligations for the security of participants in the march.

The SACL decided that the measure imposed by the Court of first instance was not expedient and proportionate to the aim to be attained, and that it would violate the balance between the interests. Therefore the Court decided to overrule the requests of both claimants on the temporary suspension of the effect of Points 1-4 of the Order of Vilnius City Municipality Government Administration No. 40-352 of 23 April 2010 regarding permission to organize the March for Equality. Also, the Court noted that in its opinion the Court of the first instance should during the trial evaluate whether the Member of Kaunas City Municipality Council Mr. Buskevicius can represent the public interest in these proceedings.

Final Decision of Vilnius County Administrative Court

Vilnius County Administrative Court made its decision on these proceedings on 24 September 2010, after over four months after the March for Equality had been successfully organized in Vilnius on 8 May.

The Court stated that, in accordance with law, the claimant Mr. Buskevicius, in the capacity of Member of Kaunas City Municipality Council,

does not have the right to protect the interests of the Municipality, and his rights or lawful interests were not or could not have been violated by the order allowing the march. Therefore, Mr. Buskevicius's complaint was overruled as unjustified, and the arguments within the complaint were no further discussed. The Court also overruled Mr. Buskevicius's request to address the Constitutional Court of the Republic of Lithuania, because the Court had no doubt about the conformity of the provisions of the Law on Meetings with the Constitution.

On 10 September 2010, the newly appointed Prosecutor General Mr. Darius Valys submitted a refusal from the previous request, and asked to drop the case; therefore this part of the case was also no further discussed.

The Decision could have been appealed against within 14 days under the appeal procedure. However, none of the parties submitted the necessary documentation on time, and therefore the Decision of Vilnius County Administrative Court is now considered to be final and not subject to appeals.

CONCLUSIONS

The Republic of Lithuania has obligations under important universal and regional treaties prohibiting discrimination, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights; the Convention for the Protection of Human Rights and Fundamental Freedoms; the European Social Charter; EU directives; the Amsterdam and Lisbon Treaties; and the Charter of Fundamental Rights of the European Union. Together, these treaties set out the right of peaceful assembly, which should be enjoyed without discrimination, including on the ground of sexual orientation.

This conclusion may also be evaluated from the point of view of the Constitution, the Criminal Code, the Law on Equal Treatment and the Law on Meetings of the Republic of Lithuania.

The right to peaceful assembly is not absolute and may be limited, despite the fact that it should be implemented without discrimination. According to the European Court of Human Rights and the Constitutional Court

of Lithuania, the right to peaceful assembly may be limited based on a lawful ground, e.g. for protecting such fundamental values as public security, health, morals, public order, rights and freedoms of other persons. The provisions on the basis of which these limitations can be applied have to be clearly indicated in the law and be proportionate to the aim to be achieved. Also, they should not negate the essence of the right to assembly, and should not limit it more than necessary in a democratic society.

Despite the mentioned international obligations and provisions in national legislation prohibiting discrimination and guaranteeing the right to peaceful assembly, a distinct tendency can be seen in Lithuania aiming to limit the rights of self-expression and assembly of LGBT people. Good illustrations of this are amendments to the Law on the Protection of Minors that came into force on 1 March 2010, proposals to amend the Code of Administrative Law Violations, and incidents that occurred in 2006 and 2007 and during Baltic Pride in 2010.

On the other hand, we can also see some positive developments in 2010–2011: obviously discriminatory provisions and amendments have been changed to “milder” versions or have not been passed as legislation. Further, three years after an unsuccessful attempt to organize a public event on the topic of LGBT rights, the March for Equality, the first event of its scale, was successfully organized on 8 May 2010. This signifies victory in an extremely important strategic battle on the way to recognition of LGBT rights and the right to assembly.

Even though Vilnius County Administrative Court made a final decision and refused to evaluate the arguments of Mr. Buskevicius and the Prosecutor General Mr. Petrauskas, important explications and significant practice was formed by the Supreme Administrative Court of Lithuania. These explications may be of utmost importance when facing similar problems in connection with organizing events in the future.

The Baltic Pride event that took place on 5-9 May 2010 in Vilnius undoubtedly attracted much attention both in Lithuania and abroad. It raised many discussions and questions, which is necessary on the road to achieving positive changes in society. At the same time, the March for Equality became an important milestone for democracy and human rights in Lithuania.























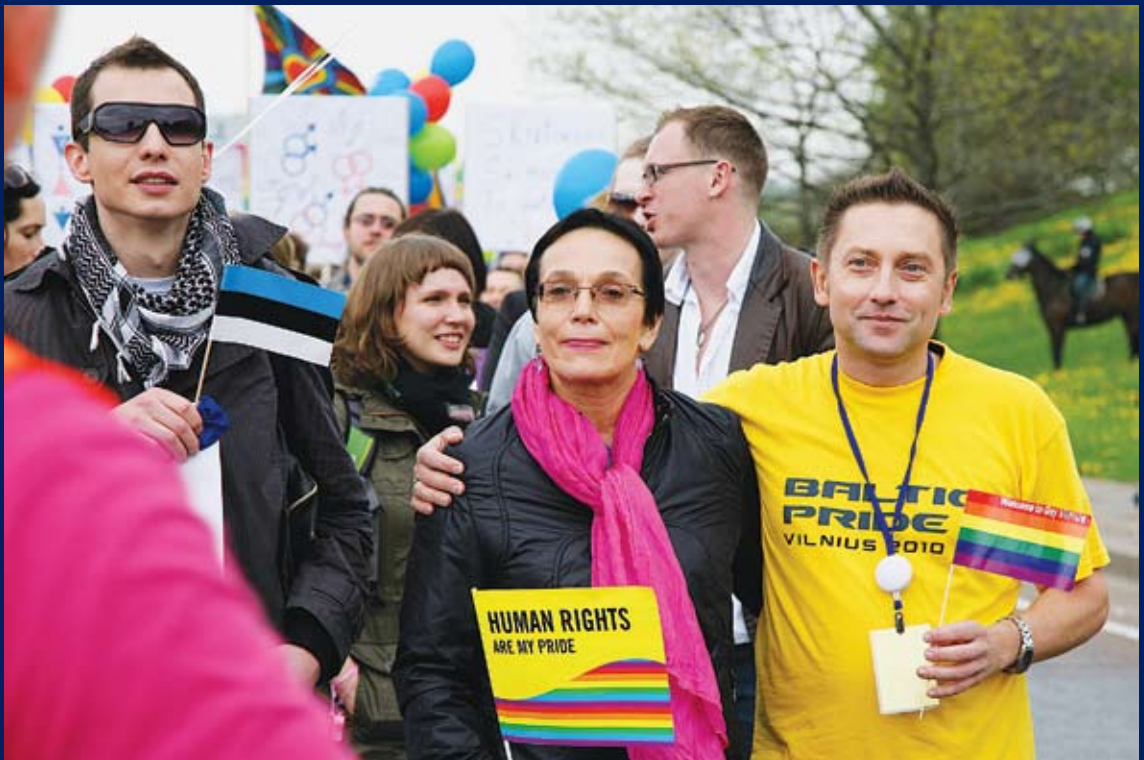
















































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CHANGING FACES

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Authors

Darja Davydova, Sigita Rukšėnaitė, Darius Sužiedėlis

Editors and contributors

Eduardas Platovas, Vladimir Simonko, Vytautas Valentinavičius, Arthur Resve

Language editor

Anna Shepherd

Design

Ieva Bernotaitė

Photographs

Charles Meacham (pp. 42-61)

Miglė Narbutaitė (pp. 100-134)

Cover image

Kare Viemose,
(Amnesty International Denmark)

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