



ENAR Shadow Report 2013/14

Racist crime in Lithuania: Research briefing

Racist crime in Lithuania continues to be under-recorded and under-reported

September 2015

This briefing has been developed by the European Network Against Racism (ENAR) and the Lithuanian Centre for Human Rights (LCHR). The data included here are based on research on racist crime in Lithuania carried out by LCHR for the 2013/14 ENAR Shadow Report on racist crime in Europe.¹

Ethnic and religious minority groups experience incidents of racist crime in Lithuania which are often not reported or correctly recorded by authorities. Perpetrators of these crimes often go unpunished and those in positions to protect and prosecute, at times, fail to carry out the most basic investigations into complaints. The extent of the problem is difficult to fully expose due to the lack of systematic official monitoring of these offences. This briefing provides information on incidents of racist crime; examines the key issues; and provides recommendations for ways forward.

The term 'racist crime' is used here to refer to an offence perpetrated because of the real or perceived ethnic or racial background of the victim. Racist crimes are made of two elements: a baseline criminal offence (such as property damage, assault or murder) and a racist bias.

Lithuanian criminal law

Racist crime falls under the scope of Lithuanian criminal law. Incitement to hatred (Art 170) is a substantive offence, which means that incitement of hatred is a criminal act itself, and the Criminal Code foresees a criminal liability for it. Thus, it will generally be accompanied by a higher penalty. There is also an article which can enhance the penalties in cases of other articles, other crimes (such as property damage) and is regulated by the article on aggravating circumstances (Art. 60 p. 1 p. 12). Other criminal offences such as murder (Art. 129), severe and non-severe health impairment (Art. 135 and 138) and desecration of a grave (Art. 312) include an aggravating sentence clause. Due to this classification, the specificity of the racist bias motive can be recognised and the penalty is potentially higher than if the crime was committed without the bias motivation.

In addition, Art. 60, part 12 of the Criminal Code states that acts committed in order to express hatred towards a group of people on the grounds of race, nationality, language, origin, faith, conviction or views, will include aggravating circumstances. It has however only been included in criminal law following

¹ The period of research covered 1 January 2013 – 31 December 2013.

requirements of international bodies and has not been correctly implemented as the aggravating circumstance or penalty enhancement is rarely used by the prosecution or police officers.²

Data regarding some racially motivated offences are recorded and published online on a regular basis by the Lithuanian Ministry of Interior. Data on the racial motivation of these crimes are disaggregated by ethnic group, nationality, gender, age and geography. However, information on religion is not recorded. It is not clear from the data available online how many crimes targeted individuals because of the real or perceived belonging to a religious minority, as there are no data disaggregated according to a person's beliefs and data are disaggregated for certain ethnic backgrounds such as Russian, Polish and Lithuanian. There are also no data on how many people were found guilty of crimes when they are committed with the motive set in Art. 60, which constitutes a significant gap in building a comprehensive data collection system.

Racist crimes in Lithuania in 2013

In 2013, official authorities recorded 84 racist crimes, while civil society organisations³ recorded twice as many, with 186 offences. The figure of 186, however, does not give a comprehensive picture of all racist crimes and incidents in 2013, as not all organisations working with different communities submitted data to the LCHR.

The 84 officially recorded crimes were categorised as incitement to hatred and violence and so there appears to be a gap in official data collection as no other type of racist crime has been recorded. Civil society organisations have identified that racially motivated crimes consist of a range of crimes including physical assault and serious harassment, damage to property and incitement to hatred. Furthermore, victims report that they experience multiple and repeated acts of racist crimes so the picture is particularly complex.

The state's figures also do not provide a full picture of the ethnic background of the victims, whereas civil society organisations have recorded racist offences that target individuals from different communities including Jewish, Polish, Muslim, Roma and Black people.

Case study

In the town of **Švenčionėliai** a number of clashes between local inhabitants and members of the Roma community took place. During one such 'clash' a group of around 20 local men, armed with sticks, attacked and injured Roma people in the centre of the town. Another armed 'clash' occurred in a local shop where at least one Roma person was injured. A few weeks later, a young Roma man was kidnapped from his home. At first the victims did not report the violence to the police but turned to police later when the violence did not end. The police started a pre-trial investigation under article 183 "Disturbance of Public Peace" of Administrative Infringements Code of the Republic of Lithuania. The police had information provided by witnesses from the local community of Švenčionėliai. In addition, the police also watched material from video surveillance cameras. After the police started the pre-trial investigation, more acts of violence took place.

Four people were arrested in relation to these incidents and the perpetrators were sentenced for racially motivated incitement of violence or physical violent treatment against <...> ethnic group of persons (Art. 170 part. 3) and violation of public order (Art. 284 part 1). The case was brought to the Supreme Court in 2014.

The Roma community stated that after these incidents they were forced to flee their home, and after returning they faced repeated persecution. Many Roma felt unsafe and persecuted. They have turned to various institutions and human rights defenders for assistance and to help seek justice.

² Interview with Mr. Rimvydas Valentukevičius, Prosecutor at the Criminal Prosecution Department, Office of the Prosecutor General.

³ Including the Lithuanian Centre for Human Rights, Human Rights Monitoring Institute, European Human Rights Foundation, Roma Community Centre and Multicultural Volunteering Centre.

Under-reporting of racist crimes

The number of racist crimes and the types of crimes recorded by the state is significantly lower than those recorded by civil society organisations. Under-reporting of racist crimes, therefore, appears to be a serious problem in Lithuania. Findings from civil society victimisation questionnaires reveal that there are many reasons for victims not reporting crimes to the police. Victims believe that the police do not take these crimes seriously and that it can be hard to prove. Moreover, prosecutors tend to investigate and pursue the case only when there is deliberate intention for a crime, and the suspect admits it. If the suspect does not admit the crime or it was unintentional,⁴ cases are usually closed. Irregular migrants who are victims of racist crime are also reluctant to report crimes to the police for fear of deportation. Roma have said that they face discrimination from the police when reporting racist crimes. In 2013 one Roma victim reported being arrested and others were asked to present their documents to the police officers. As confirmed by the Prosecutor's General Office, the majority of complaints of racist crimes reported to the police are made by NGOs and not by individual victims. This underlines the problem that victims are not reporting racist crimes to the authorities.

Police investigations

The police also under-qualify racist crimes. The Human Rights Monitoring Institute evaluated whether the Lithuanian legal system effectively responds to hate crimes while taking into account victims' rights. In their findings they state "Offence classification is often inaccurate where hate crimes are concerned leading to instances where hate crime is being labelled as hooliganism rather than bias motivated".⁵ The failure of authorities to correctly record racist crime might also be linked to the fact that the police do not receive training on how to record and investigate racially motivated crimes. Furthermore the police do not systematically recognise and investigate the racial elements of crimes unless the victim or witness explicitly states it was a racist crime. The lack of investigation of the racist element or motivations may occur even when the use of racist language is reported.

Case study

In a bar in **Vilnius**, two men and one women of Egyptian origin were physically and verbally assaulted by a group of skinheads. The incident started with the harassment of one of the victims by calling him an "ape". The victims were physically injured. Police appeared immediately, but the skinheads managed to escape. Reportedly the police did not chase the perpetrators, even though they saw them. The victims decided not to file a complaint due to lack of trust in the police and because they did not believe that reporting would not have any positive impact. The victim of the crime did not seek help.

Victim support

Legislation on the State-Guaranteed Legal Aid, adopted in 2005, constitutes a positive step in the implementation of a comprehensive victim support service. It provides victims with aid that covers legal advice to legal representation in the court. However, not all victims of racist crime are eligible to free legal aid. The margin for improvement in victim support services is still significant. Firstly, it is unclear whether interpretation and translation services are always provided free of charge for victims, whilst this service is available for suspects. Secondly, there are provisions in victim support services to provide police protection during the prosecution but in reality this is almost never implemented. Lastly, there is no systematic practice in the police and criminal justice system that prevents the intimidation or the re-victimisation of victims of racist crime.

⁴ In some cases prosecutors claim that a person expressed a very categorical drastic opinion but did not wish to incite hatred.

⁵ 'Protection of hate crime victims' rights: the case of Lithuania', study, Human Rights Monitoring Institute, 2013. www.hrmi.lt/uploaded/Apzvalgos/Hate%20Crimes%20Victims%20Rights%20Study%20EN%202013.pdf

Good practice

- Building bridges between communities and authorities to tackle under-reporting constitutes a good way to address the issue of racist crime. In Lithuania, 79 community officers were established in territorial police stations from the beginning of 2014 following the Order of Police Commissioner General, which was adopted on 19 July 2013. Their role is to communicate and cooperate with various social groups and their representatives, associations, NGOs, ethnic, national, or religious organisations. It aims to identify problems faced by communities, to create a safe environment, to reduce the number of criminal and other offences, including hate crimes. At this point it is not known whether they have started to meet with different NGOs, civil society organisations and/or community members.
- Awareness raising initiatives at the political level are an important strategic tool to tackle racist crime. In 2013, a roundtable was organised in the Parliament of the Republic of Lithuania under the auspices of a member of parliament, Ms Dalia Kuodytė and in cooperation with ENAR. It focused on hate crime and gathered representatives of the police, NGOs and ethnic minority communities.

Recommendations

- Encourage increased reporting of racist crimes by developing national awareness strategies and campaigns on the effects of racist crime and on victims' rights from the initial contact with the police and throughout the investigation by directly engaging with vulnerable minority groups.
- Appoint the Equal Opportunities Ombudsperson, who has not been appointed since the end of term of the last Equal Opportunities Ombudsperson in 2013, and ensure their active role in reaching out to different communities and providing assistance in defending their rights and recognising discriminatory behaviour as well as hate crime.
- Ensure that under-reporting of hate crime is recognised by the prosecution, police department, and ensure that these institutions proactively investigate hate speech and reach out to communities to gain their trust and identify hate crime.
- Develop, in collaboration with civil society organisations and the equality body:
 - a shared understanding of racist crime across the criminal justice system and guiding principles for racist crime training to be offered to law enforcement forces, prosecution services, judges, court staff and victim support services;
 - clear guidelines on how the state should respond to racially motivated crimes at all levels, from recording and investigating complaints through to sentencing and victim support, and disseminate these guidelines to law enforcement, judiciary and victim support personnel; and
 - provide coordinated, coherent and ongoing professional training for all law enforcement and criminal justice personnel, based on a shared understanding of racist crime, to ensure that theoretical approaches become engrained in practice. Monitor performance in this area through appraisals.
- Train the police service and insert in the curriculum of future police officers specific training to recognise unconscious bias and structural discrimination and ensure that cases of discriminatory behaviours by the police are publicly sanctioned.

- Develop a common recording and reporting interface for law enforcement officials, the prosecution and the judiciary, in accordance with data protection standards, to ensure that data collection and reporting is systematic and coordinated from the start of a complaint to the end of the judgement.
- Introduce victim support services that could be provided by civil society organisations, communities that provide not only legal support but mediation and social, emotional support to victims of hate crime.
- Provide funding to victim support services, civil society organisations and academics to carry out research, data collection and reporting on the nature and extent of racist crime.
- Civil society organisations work together to develop mechanisms to record information on incidents of racist crime and the impact on victims and use that data to advocate for improved legislative frameworks that ensure clear recognition of the racist motivations as well as other hate motivation.

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The European Network against Racism (ENAR) stands against racism and discrimination and advocates equality and solidarity for all in Europe. We connect local and national anti-racist NGOs throughout Europe and act as an interface between our member organisations and the European institutions. We voice the concerns of ethnic and religious minorities in European and national policy debates. Website: www.enar-eu.org



The Lithuanian Centre for Human Rights (LCHR) is human rights NGO based in Vilnius. LCHR has been working in the field of human rights for nearly two decades. Since its foundation in 1994, LCHR focused on human rights education, advocacy and research, implementing numerous projects and activities in the field. LCHR is a member of ENAR and is involved in writing shadow reports since 2007. Website: www.manoteises.lt