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Thematic Study

Housing Conditions of Roma and
Travellers

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Executive summary

This study presents an overview of desk research and field research on the housing conditions of the Roma in Lithuania. The study is divided into the following thematic sections: legal and policy framework, available quantitative and qualitative data and information on the housing conditions of the Roma in Lithuania.

Housing data collected either in statistical surveys or by state and municipal institutions do not indicate the ethnicity of residents. There are no systematically collected data on housing, and the living conditions of ethnic minorities, including Roma, remain an under-researched field. In general, information on elderly Roma, Roma with disabilities and Roma women and children is not available.

Private sector housing accounts for about 95 per cent of the total housing stock in Lithuania. There is a great shortage of rental housing, especially for low-income persons and families. In 2008 social housing accounted for only 2.7 per cent of the country's total housing stock. Access to social housing is very limited for the Lithuanian population in general and does not meet demand; in order to gain access to social housing, low-income persons and families must enrol onto waiting lists.

Lietuvos Respublikos Lygių galimybių įstatymas [Law on Equal Treatment of the Republic of Lithuania], which transposes Council Directive 2000/43/EC (29.06.2000), bans discrimination in access to housing; however, it is difficult to assess the impact of the directive. Excluding social integration programmes for refugees, neither gender equality legislation or policy nor ethnic minority legislation or policy specifically target housing components. No legislation or policy measures have been drafted or applied directly to improve either the spatial integration or the living conditions of the Roma.

In 2000-2008 no effective solutions were reached in the housing sector to improve the integration and cohesion of the Roma community. Little attention has been given to housing issues during the planning of anti-discrimination and community cohesion policy.

The most comprehensive source of information on the country's Roma community is the 2001 census. However, no statistical data are available regarding the current Roma population. Different sources reviewed in the report presume that the Lithuanian Roma community comprises up to 3,000 persons.

Although international organisations, official institutions and nongovernmental bodies recognise that some Roma live in sub-standard housing, there exist no generalised data on Roma housing.

The majority of Lithuanian Roma are sedentary. According to survey data from 2008, more than half of the Roma respondents (52 per cent) indicated that they had been living in the same municipality for more than 20 years. No data are available concerning itinerant Roma as there are very few itinerant Roma in Lithuania.

Data gathered from various sources indicate that a much greater proportion of Roma are dependent on public housing compared to the Lithuanian population at large. The mean size of a Roma household is several times larger than the national average.

The country's largest Roma settlement comprises about 500 persons and is located in the district of Kirtimai, an industrial area near the Vilnius International Airport. The Roma living in the outskirts of Vilnius are ghettoised and discriminated against with regard to housing opportunities. The Roma housing issue rose in prominence after the Vilnius city municipality demolished buildings in the Kirtimai settlement on 2-3.12.2004; however, the city's actions created no precedence for either court decisions or the development of policy measures.

The increasing number of complaints regarding Roma housing issues sent to the *Seimo kontrolierių įstaiga* [Seimas Ombudsperson's Office] from various locations in Lithuania indicates that the Roma live under severe and unsatisfactory conditions in places other than the Kirtimai settlement.

No regulated encampments exist in Lithuania, and temporary encampments and halting sites are rare.

No governmental reports are available regarding Roma issues, including housing, in Lithuania. Rather, reports of international bodies, non-governmental organisations and academic institutions address the problems that the Roma face in accessing adequate housing.

Various sources identify two main problems regarding Roma housing issues in Lithuania: (1) the poor quality of existent housing; (2) limited opportunities to legitimise one's present form of housing, which may involve illegal construction works or dwellings on state-owned land, or to change one's place of residence.

The Roma living in Lithuania have limited opportunities to change their places of residence or improve their housing situation. Social housing is not necessarily a suitable alternative, as it increases living costs and many Roma question whether they can afford the added expense.

However, Roma emigration and migration within the country observed in the last decade does not overcome the problems of social exclusion. Recent social research has indicated poverty migration within the country as Roma gradually move to cheaper housing because of prohibitively high expenditures. This

process indicates a deepening social marginalisation of the Roma that began during a period of economic growth within the country. In this way, some members of the Roma community are isolated both geographically and socially from urban centres and opportunities for social development.

Resolving the Roma housing issue is a complicated task in the absence of a detailed plan aimed at improving the situation. The absence of such a plan makes it impossible to introduce reforms in the Kirtimai settlement.

There are no noteworthy national or regional projects targeting the housing situation of Roma in Lithuania.

There are no projects or policy measures in Lithuania that could be presented as good practice with regard to the Roma housing situation.

1. Desk research

1.1. Legal and policy framework

Housing data collected either in statistical surveys or by state and municipal institutions do not indicate the ethnicity of residents. There are no systematically collected data on housing, and the living conditions of ethnic minorities, including Roma, remain an under-researched field. In general, information on elderly Roma, Roma with disabilities and Roma women and children is not available.

No solutions were reached in 2000-2008 to improve the integration and cohesion of the Roma community in the housing sector. Little attention has been given to housing issues during the planning of anti-discrimination and community cohesion policy.

1.1.1. National legislation

Article 6 of the Law on Equal Treatment¹ establishes the right to equal treatment in obtaining goods and services, including the provision of housing.² There is no information available to assess the impact of Council Directive 2000/43/EC in housing. Apart from social integration programmes for refugees, neither gender equality legislation or policy nor ethnic minority legislation or policy specifically target housing components in Lithuania. No legislation or policy measures have been drafted or applied directly to improve either the spatial integration or the living conditions of the Roma.

State oversight for the housing sector is divided horizontally among seven ministries: (1) *Aplinkos ministerija* [Ministry of Environment], which is responsible for the technical and physical management of housing stock; (2) *Finansų ministerija* [Ministry of Finance], which manages the funding of housing programmes; (3) *Socialinės apsaugos ir darbo ministerija* [Ministry of Social Security and Labour], which provides heating and water subsidies to low-income families; (4) *Ūkio ministerija* [Ministry of Economy], which decides issues related to energy use; (5) *Žemės ūkio ministerija* [Ministry of Agriculture], which manages land matters; (6) *Teisingumo ministerija* [Ministry of Justice], which is responsible for the real estate register; (7) *Vidaus reikalų ministerija* [Ministry of the Interior], which formulates and implements regional development policy, ensures the coordination of state and local government

¹ Lithuania/05.07.2008 No. X-1602 (17.06.2008)

² For information on claims received by the Equal Opportunities Ombudsperson since 2005, see paragraph 141

interests and establishes legal and economic provisions for the functioning of local communities.

The Lithuanian housing sector is regulated mainly by six laws: (1) *Civilinis kodeksas* [Civil Code] of the Republic of Lithuania;³ (2) *Daugiabučių namų savininkų bendrijų įstatymo* [Law on Home Owners' Associations of Multi-Apartment Buildings];⁴ (3) *Gyventojų apsirūpinimo gyvenamosiomis patalpomis įstatymo* [Law on State Support to Acquire or Rent Housing] of the Republic of Lithuania;⁵ (4) *Piliečių nuosavybės teisių į išlikusį nekilnojamąjį turtą atkūrimo įstatymas* [Law on the Restoration of the Ownership Rights to the Existing Real Property of the Citizens] of the Republic of Lithuania;⁶ (5) *Žemės įstatymo* [Law on Land] of the Republic of Lithuania;⁷ (6) *Statybos įstatymas* [Law on Construction] of the Republic of Lithuania.⁸

According to the Law on State Support to Acquire or Rent Housing or Renovate the Multi-Apartment Buildings of the Republic of Lithuania,⁹ social housing is rented to low-income persons and families who are enrolled onto waiting lists. Applicants for social housing must demonstrate the absence or overcrowded state of their current housing and also a low level of annual disposable income. Persons and families who have declared permanent residency in a certain municipality may apply for social housing if they lack housing or if their current housing measures less than 10 square metres per person (less than 14 square metres in the case of a disabled person or family member). Additionally, persons and families applying for social housing must have annual disposable incomes not exceeding a level defined by the government; with minor variations in different municipalities, at the end of 2008, the maximum annual disposable income for a single person without dependents amounted to LTL 11,000 (EUR 3,176) and the maximum value of property owned by that individual was set at LTL 20,000 (EUR 5,775). Applicants are registered in the following queues: young families, families with three or more children, orphans and persons without parental custody (under 35 years of age), disabled persons, tenants of social housing who are eligible to improve their living conditions and a general list that includes all categories not previously identified. Usually, social housing is divided proportionally among queues.

³ Lithuania/18.07.2000 No. VIII-1864 (01.07.2001); Lithuania/28.02.2002 No. IX-743 (01.01.2003); Lithuania/17.10.2006 No. X-858 (31.10.2006)

⁴ Lithuania/20.06.2000 No. VIII-1741 (12.07.2000)

⁵ Lithuania/24.03.2005 No. X-143 (12.04.2005)

⁶ Lithuania/12.11.1997 No. VIII-359 (29.10.2002)

⁷ Lithuania/26.04.1994 No. I-446 (06.05.1997); new version Lithuania/27.01.2004 No. IX-1983 (21.02.2004)

⁸ Lithuania/19.03.1996 No. I-1240 (10.04.1996); amendments: Lithuania/08.11.2001 No. IX-583 (01.07.2002); Lithuania/21.12.2006 No. I-1240 (21.12.2006); Lithuania/03.05.2007 No. X-1111 (19.05.2007)

⁹ Lithuania/24.03.2005 No. X-143 (12.04.2005)

Access to social housing is very limited for the Lithuanian population in general. At the end of 2007,¹⁰ the pool of social housing consisted of about 26,000 flats. By the beginning of 2008,¹¹ over 20,000 persons and families were enrolled onto municipal social housing waiting lists; of the total, 34.5 per cent were in general queues, 33.1 per cent were in queues for young families, 17.0 per cent were in queues for disabled applicants, 8.1 per cent were in queues for orphans and abandoned children, 4.6 per cent were in queues for families with three or more children, and 2.7 per cent were in queues for tenants eligible to improve their living conditions. There are no social housing queues intended specifically for the Roma; instead, they are enrolled onto the aforementioned lists and follow the same queues as the rest of the general population.

Experts maintain that the following problems exist regarding the provision of social housing in Lithuania. According to a representative of the Vilnius city municipality,¹² *Socialinių reikalų departamentas* [Department of Social Affairs] is responsible for the provision of social housing. However, the allocation of social housing is not regulated within the framework of social services provided by government.¹³ Among the social services, only temporary lodging is provided.

According to the Civil Code, the eviction of persons from a dwelling may only be carried out on the basis of judicial proceedings or by sanction of the public prosecutor.¹⁴ Evictions may take place due to the expiration or dissolution of a rental contract or the dilapidated state of an apartment house or flat, among other reasons. Article 13 of *Vaiko teisių apsaugos pagrindų įstatymas* [Law on Fundamentals of Protection of the Right of the Child]¹⁵ establishes a child's right to a home; a child cannot be evicted from a dwelling without being provided alternative housing.

With the exception of the demolition of housing in the Kirtimai settlement in 2004, there is no systematic information concerning Roma individuals and families who would have been forcibly evicted from their homes.

¹⁰ Lithuania/05.06.2008 No. 548 (15.06.2008), available in Lithuanian at: <http://www.am.lt/VI/index.php#a/7837> (27.03.2009)

¹¹ Lithuania/05.06.2008 No. 548 (15.06.2008), available in Lithuanian at: <http://www.am.lt/VI/index.php#a/7837> (27.03.2009)

¹² Interview of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) with the representative of Social Assistance Division at the Vilnius city municipality (18.03.2009)

¹³ According to the *Law on Social Services*, social services shall be the services aimed at providing assistance to a person (family) who, by reason of his age, disability, social problems, partially or completely lacks, has not acquired or has lost the abilities or possibilities to independently care for his private (family) life and to participate in society. Lithuania/19.01.2006 No X-493 (12.02.2006)

¹⁴ Lithuania/18.07.2000 No. VIII-1864 (01.07.2001)

¹⁵ Lithuania/08.06.2006 No. I-1234 (01.07.2006)

In this context, amendments to the Civil Code¹⁶ and the Law on Construction¹⁷ that were passed in 2006 should be mentioned as they relate to the court case involving the demolition of Roma housing in 2004. These amendments restrict opportunities for the legalisation of unauthorised constructions. For example, prior to the introduction of the 2006 amendments, Article 28(2) of the Law on Construction permitted county governors' administrations and the State Territorial Planning and Construction Inspectorate to investigate unauthorised construction works and pursue one of the following courses of action: (1) stop construction of a construction works and request from the builder to demolish construction works, if in the territory where construction of a new construction works is carried out or a construction works is reconstructed, construction or reconstruction of any new construction works or a construction works of a certain purpose is prohibited; to appeal to the court if such request is not carried out within the set time limit; (2) when construction of a construction works may be carried out, to allow the builder to prepare a design documentation of a construction works and obtain a construction permit; (3) to obligate the builder to unauthorised construction operations in accordance with the design documentation of a construction works; (4) to request from the builder (client) to demolish a construction works with his own funds and to clean a construction site; (5) to appeal to the court without making decisions specified above. The 2006 amendments established that the aforementioned authorities could consider an act on unauthorised construction and, not later than within one month from the drawing-up of an act on unauthorised construction, take one of the following decisions: (1) to request from the builder to eliminate within the set time limit and with his own funds the results of unauthorised construction – to demolish or to reconstruct according to the requirements the construction works or its part which was built without authorisation, and to clean a construction site; (2) to appeal to the court if a decision specified afore is not taken.

1.1.2. Housing Policy Framework

The Ministry of Environment is responsible for the development of Lithuania's housing policy. In 2004 the ministry published the *Lietuvos būsto strategija* [Lithuanian Housing Strategy],¹⁸ which outlines the housing situation in Lithuania.

¹⁶ Lithuania/17.10.2006 No. X-858 (31.10.2006)

¹⁷ Lithuania/21.12.2006 No. I-1240 (21.12.2006); Lithuania/03.05.2007 No. X-1111 (19.05.2007)

¹⁸ Lithuania/21.01.2004 No. 60, (21.01.2004), available in English at: <http://www.am.lt/VI/en/VI/index.php#a/67> (23.03.2009)

According to the Lithuanian Housing Strategy,¹⁹ the country's economic development brought about changes to housing policy that resulted in the restructuring of the housing sector, the abolition of direct regulation of the housing market and increased levels of homeownership among members of the population. In 2001 the private housing sector accounted for 97 per cent of the country's total housing stock. There remains a great shortage of rental housing in Lithuania, especially for low-income persons and families. In 2008 social housing accounted for only 2.7 per cent of the country's total housing stock; according to the strategy, the share of social housing should rise to 4-5 per cent of Lithuania's total housing stock in 2020.²⁰

According to data from a 2008 sociological survey on the Lithuanian housing sector²¹ commissioned by the Ministry of Environment, the majority of respondents (86 per cent) indicated that they or another member of the household owned their place of residence, while 9 per cent indicated that they lived in housing owned by a third party and 2 per cent indicated that they lived in municipally or state-owned housing. The Lithuanian rental housing market is underdeveloped, and information on the market is very limited.²² Since a considerable amount of business on the rental market is handled informally, there exists little information about this sector. Also, it is uncommon to encounter any information regarding the formal means of handling disputes involving rental housing.

According to the Lithuanian Housing Strategy, six housing programmes are financed by the state budget. The programmes deal with the following matters: (1) partially subsidised interest on privileged housing loans (effective until 01.01.2013, the credits valid until 2012);²³ (2) tax deductions;²⁴ (3) additional support for families raising children (including support for orphans and some groups of disabled persons);²⁵ (4) subsidies to cover insurance premiums; (5) support of homeowners' associations in multi-apartment buildings implementing residential energy efficiency projects; (6) social housing development. No information is available concerning the ability of Lithuanian Roma to access these programmes.

¹⁹ Lithuania/21.01.2004 No. 60, (21.01.2004), available in English at: <http://www.am.lt/VI/en/VI/index.php#a/67> (23.03.2009)

²⁰ Lithuania/05.06.2008 No. 548 (15.06.2008), available in Lithuanian at: <http://www.am.lt/VI/index.php#a/7837> (27.03.2009)

²¹ The public opinion poll *Situacijos būsto sektoriuje sociologinis tyrimas*, with a sample of 1003 Lithuanian residents aged 18–75, was carried out in 2008 (data collected on 5-26.09.2008) by the research company *Spinter tyrimai* at the request of the Ministry of Environment. The main results of the poll are available in Lithuanian at: <http://www.am.lt/VI/files/0.882963001235563231.pdf> (13.05.2009)*

²² S. Tsenkova (2004) 'Lithuanian Housing Strategy: Monitoring and Implementation', available at: <http://www.am.lt/VI/en/VI/index.php#a/66> (19.05.2009)

²³ Lithuania/07.04.1992 No. I-2455 (20.05.1992); new version 12.11.2002 No. IX-1188 (01.01.2003)

²⁴ Lithuania/02.07.2002 No. IX-1007 (01.01.2003)

²⁵ Lithuania/12.11.2002 No. IX-1188 (01.01.2003)

According to the Lithuanian Housing Strategy,²⁶ the programmes that are currently being implemented are not sufficiently effective. There exists no common information system on the housing situation in Lithuania.

Among the priorities outlined in the Lithuanian Housing Strategy²⁷ are the expansion of housing choices for all social groups through the development of the rental housing sector and social housing stock (to be paid for using public funds), the provision of support to low-income households for housing maintenance and the promotion of social cohesion.

Social housing in Lithuania is administered by municipal governments. *Socialinio būsto fondo plėtros* [Social Housing Development Programmes]²⁸ for the years 2004-2006, 2005-2007 and 2008-2010 were or are currently being implemented as part of the Lithuanian Housing Strategy. State budget funds and municipal resources are the two sources of financing for social housing. Under the Social Housing Development Programmes, state budget funds are earmarked and allocated proportionally to address needs identified by municipalities.

Disabled persons have several opportunities to access state-supported housing. As previously mentioned, disabled persons applying for social housing are eligible for enrolment onto a special queue. With regard to privately owned property and its compliance with housing accessibility requirements, housing can be adapted for personal needs. *Būsto pritaikymo žmonėms su negalia* [Housing Adaptability for Disabled Persons Programme] for 2007-2011²⁹ establishes new requirements for the adaptation of housing for disabled residents. In 2000-2005 nearly 20 per cent of housing adaptation requests (representing around 1,500 dwellings) were fulfilled, with variations in different municipalities.³⁰ The 2007-2011 Programme focuses on providing assistance to people with movement and self-care disorders. According to *Neįgaliųjų reikalų departamentas prie Socialinės apsaugos ir darbo ministerijos* [Department for the Affairs of Disabled at the Ministry of Social Security and Labour],³¹ 52 per

²⁶ Lithuania/21.01.2004 No. 60, (21.01.2004), available in English at: <http://www.am.lt/VI/en/VI/index.php#a/67> (23.03.2009)

²⁷ Lithuania/21.01.2004 No. 60, (21.01.2004); available in English at: <http://www.am.lt/VI/en/VI/index.php#a/67> (23.03.2009)

²⁸ Lithuania/12.06.2004 No. 708 (21.06.2004), Lithuania/05.06.2008 No. 548 (15.06.2008), available in Lithuanian at: <http://www.am.lt/VI/index.php#a/7837> (27.03.2009)

²⁹ Lithuania/28.06.2006 No. 638 (01.07.2006), available in Lithuanian at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=279382&p_query=&p_tr2= (25.03.2009)

³⁰ Lithuania/28.06.2006 No. 638 (01.07.2006), available in Lithuanian at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=279382&p_query=&p_tr2= (25.03.2009)

³¹ Department for the Affairs of Disabled at the Ministry of Social Security and Labour, information on *Housing Programme*, available at: http://www.ndt.lt/id-busto_programa.html (25.03.2009)

cent of requests for housing adaptation (363 of a total 687 requests) were fulfilled in 2008.

In order to qualify for the housing adaptation programme, dwellings must have been legally constructed³² and have certain amenities. This requirement seriously restricts the ability of disabled Roma to adapt their housing to their personal needs.³³

No data is available regarding housing adaptation applications filed by disabled Roma. In theory, applications from disabled Roma should be registered according to standard procedure; however, it is unlikely that many housing adaptations would be implemented due to the requirements outlined in the previous paragraph.

Skurdo mažinimo Lietuvoje strategija [Poverty Reduction Strategy] developed in 2000³⁴ was the first Lithuanian government document to be considered an inclusion policy measure. However, housing issues were mentioned only a few times in the document and were not listed among the strategy's ten most important policy areas (development of economy, regional policy and support to the rural population, adjustment of fiscal policy, income policy, labour market policy, social support, social services and social integration, legal support, education and vocational training, and health protection).

Lietuvos Respublikos 2004-2006 m. nacionalinis kovos su skurdu ir socialine atskirtimi veiksmų planas [National Action Plan against Poverty and Social Exclusion in 2004-2006 (NAP/Inclusion)]³⁵ identified ethnic minorities such as the Roma as a vulnerable social group. Also included in the list of vulnerable social groups were dysfunctional families; orphans and abandoned children; ethnic asylum seekers; victims of hate crimes, sexual violence, and human

³² Order of the Minister of Social Security and Labour, Lithuania/19.04.2007 No. A1-111, available in Lithuanian at:
http://www.socmin.lt/get_file.php?file=bWFacG0yYVJiSDZYMUpTV3g2MlcxSmV1WjVhWHY4VzRicUZ0bXBmVVpOaWEybXZHYTVkbFpHYlpsS0Njbk1lVGxLWmtZOGJRbHNScG1tJTJCWFNNWd5VyUyRldhWkJwckphYm1jJTJGRm5aJTJCZWxOZG9hSkdheWN6RjBaMlpiV3VYbTVTY21aZVhqMiUyQmlscDJXMnNsc201dVZ4V1N6bEoyVjBjZk9iS2R3V1piRVp0bWlxcGpWYUrtWfZaYld5S1BKb3BYWwXwcVRuY25PeGQ1eG9acWFtTlZsa203UWFjBHJxWmx3WktlRQ== (26.03.2009)

³³ Order of the Minister of Social Security and Labour, Lithuania/19.04.2007 No. A1-111, available in Lithuanian at:
http://www.socmin.lt/get_file.php?file=bWFacG0yYVJiSDZYMUpTV3g2MlcxSmV1WjVhWHY4VzRicUZ0bXBmVVpOaWEybXZHYTVkbFpHYlpsS0Njbk1lVGxLWmtZOGJRbHNScG1tJTJCWFNNWd5VyUyRldhWkJwckphYm1jJTJGRm5aJTJCZWxOZG9hSkdheWN6RjBaMlpiV3VYbTVTY21aZVhqMiUyQmlscDJXMnNsc201dVZ4V1N6bEoyVjBjZk9iS2R3V1piRVp0bWlxcGpWYUrtWfZaYld5S1BKb3BYWwXwcVRuY25PeGQ1eG9acWFtTlZsa203UWFjBHJxWmx3WktlRQ== (26.03.2009)

³⁴ The Ministry of Social Security and Labour, available in English at:
<http://www.socmin.lt/index.php?-311688494> (20.05.2009)

³⁵ The Ministry of Social Security and Labour, available in English at:
<http://www.socmin.lt/index.php?-311688494> (20.05.2009)

trafficking; prostitutes; and other at-risk persons. With regard to the Roma, the action plan focussed on poor education and high incidences of poverty and unemployment. Housing issues were addressed in NAP/Inclusion; specifically, the action plan called for analysing mechanisms for providing housing to persons from socially excluded groups and studying ways to improve these mechanisms, increasing the amount of rental housing available in municipalities and advancing social support for low-income persons who live in rental housing and expanding the scale and diversity of municipal accommodation services provided to the homeless and other persons in need.

Nacionalinis pranešimas apie Lietuvos socialinės apsaugos ir socialinės aprėpties strategijas 2006-2008 m. [National Report on Strategies of Lithuania for Social Protection and Social Inclusion 2006-2008] specifically targets housing issues through measures for adapting social services to the needs of specific recipient groups, including the adaptation of housing facilities for disabled persons under *Nacionalinės žmonių su negalia socialinės integracijos 2003-2012 metų programos* [National 2003-2012 Programme on Social Integration of Persons with Disabilities]. The report also addresses housing issues through family support measures such as the preparation of a three-year programme on the development of the Social Housing Fund and preparation of the Draft Law concerning the revision and amendments of the Law of the Republic of Lithuania on the State Support in the acquisition of accommodation or renting a lodging, and renovating multi-storied dwelling houses, introducing compensation of a certain part of rent to low income individuals (families), who are renting lodging in the private sector and are entitled to social housing privileges.³⁶ The Roma are not specifically targeted or mentioned³⁷ in the National Report on Strategies of Lithuania for Social Protection and Social Inclusion.

1.1.3. Policy Measures targeting Roma

This subsection outlines policy measures that target the Roma to some extent. Some of programmes listed address the Roma housing issue. However, the

³⁶ National Report on Strategies of Lithuania for Social Protection and Social Inclusion 2006-2008 with the Annex Tasks and Measures in Reducing Poverty and Social Exclusion, available at: http://ec.europa.eu/employment_social/social_inclusion/docs/2006/nap/lithuania_en.pdf (27.03.2009)

³⁷ Most measures of social inclusion and social policy target one-dimensional aspects of social integration; the multi-dimensional issues of poverty, social exclusion and discrimination are not applied (e.g.: the NRSSPSI). The ethnic dimension is not an exception in this case. In: A. Poviliūnas, V. Beresnevičiūtė (2006) *'Lithuania: "Feeding in" and "Feeding out", and Integrating Immigrants and Ethnic Minorities: A Study of National Policies'*, available at: http://www.peer-review-social-inclusion.net/policy-assessment-activities/reports/second-semester-2006/second-semester-reports-2006/lithuania_2_06 (27.03.2009)

policy measures do not specifically target elderly Roma, Roma women, Roma with disabilities or other groups.

Romų integracijos į visuomenę 2008-2010 programa [Programme for the Integration of Roma into Lithuanian Society 2008-2010]³⁸ was confirmed on 26.03.2008 and is currently being implemented by *Tautinių mažumų ir išeivijos departamentas* [Department of National Minorities and Lithuanians Living Abroad]. Despite the fact that the programme recognises Roma housing issues, it does not yet include any particular measures to solve the problem. The programme envisages the collection of information on Roma housing conditions in 2008-2009; specifically, it calls for a qualitative analysis of the legal regulations pertaining to Roma housing and living conditions and a feasibility study regarding Roma opportunities for the Roma to acquire housing and improve their living situation. According to the Department of National Minorities and Lithuanians Living Abroad, no progress was recorded in this area in 2008 due to a lack of financial resources.³⁹

The Programme for the Integration of Roma into Lithuanian Society 2008-2010 is a continuation of *Romų integracijos į visuomenę 2000-2004 programa* [Programme for the Integration of Roma into Lithuanian Society 2000-2004],⁴⁰ which was the country's first national Roma integration programme. The 2000-2004 programme mentioned the poor housing situation of the Roma, but it proposed no solutions to the problem and ultimately had no impact on Roma housing issues in Lithuania.

In 2005, Vilniaus miesto savivaldybės taryba [the Council of the Municipality of Vilnius] approved *Vilniaus romų bendruomenės ir šalia taboro esančių teritorijų priežiūros ir saugumo užtikrinimo bei romų segregacijos mažinimo 2005-2010 metų programą* [Programme of Surveillance and Security of the Vilnius Roma Community and Territories near the Encampment and the Reduction of Roma Segregation for 2005-2010].⁴¹ The programme includes a

³⁸ Lithuania/Tautinių mažumų ir išeivijos departamentas (2008) *Romų integracijos į visuomenę 2008-2010 m. programa*, available in Lithuanian at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=317530&p_query=Rom%F8%20integracijos%20i%20Lietuvos%20visuomen%20E6%202008-2010%20programa&p_tr2=2 (24.03.2009)

³⁹ Lithuania/Vyriausybės kanceliarijos žinių visuomenės departamento švietimo, mokslo ir kultūros skyrius (2009) *Pažyma dėl Romų integracijos į Lietuvos visuomenę 2008–2010 metų programos uždavinių įgyvendinimo 2008 metais ataskaitos*, available in Lithuanian at: http://www.lrv.lt/Posed_medz/2009/090429/16.pdf (19.05.2009)

⁴⁰ Lithuania/Tautinių mažumų ir išeivijos departamentas (2000) *Romų integracijos į visuomenę 2000-2004 programa*, available in Lithuanian at: <http://www.tmid.lt/old/files/nutarimai/20000701Nr759.doc> (19.05.2009)

⁴¹ Lithuania/Council of the Municipality of Vilnius, *Vilniaus romų bendruomenės ir šalia taboro esančių teritorijų priežiūros ir saugumo užtikrinimo bei romų segregacijos mažinimo 2005-2010 metų programą*, decision No. 1-838, confirmed on 22.06.2005, available in Lithuanian at: <http://www.vilnius.lt/vaktai/Default.aspx?Id=3&DocId=30075568> (19.03.2009)

chapter on housing that includes the following five measures: (1) the provision of social housing; (2) the permanent provision of information on available social housing; (3) the provision of temporary accommodation; (4) the resettlement of Roma who are willing to move out the Kirtimai settlement; (5) an address to the Lithuanian government regarding the allocation of finances for the resettlement of Roma to other municipalities. *Energetikos ir ūkio departamentas* [Department of Energy and Economy] of the Vilnius city municipality is responsible for the implementation of the programme; however, no resources to cover the provision of housing are allocated in the programme, and no steps have been taken to implement this programme. According to a representative of the Vilnius city municipality,⁴² the implementation of the programme has been suspended due to administrative problems. Apart from the demolition of houses in the Kirtimai settlement in late 2004, the programme has not produced any measures addressing Roma housing issues within the municipality.

⁴² Interview of NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) with a representative of the Social Assistance Division of the Vilnius city municipality (18.03.2009)

1.2. Quantitative data on the housing situation of Roma and Travellers

1.2.1. Number of Roma and Travellers in the country, if possible broken down by reference whether sedentary, semi-sedentary or itinerant

In Lithuania's 2001 census, 2,571 persons identified themselves as Roma/Gypsies;⁴³ however, some believe that not all Roma were registered in the census and that the actual number of Roma in the country could be higher.⁴⁴ According to the 2001 census, Roma lived throughout Lithuania but were concentrated in the municipalities of Vilnius (640 persons), Kaunas (364 persons), Panevėžys (141 persons), Šiauliai (170 persons), and Klaipėda (58 persons).

No statistical data are available on the number of Roma presently living in Lithuania. Likewise, there is no evidence of a decline in the Roma population. However, emigration has had an affect on Roma community. For example, Kaunas, the second largest city of Lithuania, once had a sizeable Roma community; few Roma families live there at present. Survey data⁴⁵ collected in late 2008 indicate that a significant proportion of Roma have moved from Lithuania to other countries; however, Roma from neighbouring areas such as the Russian exclave of Kaliningrad continue to resettle in Lithuania, and Roma migration within Lithuania continues to occur. Many Roma who participated in the survey have emigrated for various lengths of time and some have experience working abroad.

According to unofficial estimates, 142 Roma lived in the city of Panevėžys in 2008.⁴⁶

⁴³ Lithuania/Statistikos departamentas (2002) *Lietuvos gyventojų ir būstų surašymas 2001. Gyventojai pagal lytį, amžių, tautybę ir tikybą*

⁴⁴ NFP-Lithuania (Centre of Ethnic Studies) (2004) *Roma in Public Education Lithuania. Special Study for EUMC*. Available at: http://www.ces.lt/downloads/structure/files/Roma_Lithuania.pdf (20.05.2009)

⁴⁵ Centre of Ethnic Studies at the Institute for Social Research (2008) *Romų padėties tyrimas: romai švietimo ir darbo rinkos sankirtoje [Roma Situation: Roma at the Cross-Road of Education and Labour Market]*. Research report conducted at the request of Department of National Minorities and Lithuanians Living Abroad. The research sample included 231 Lithuanian Roma living in various geographical sites in Lithuania. The data was collected in November-December 2008.

⁴⁶ Centre of Ethnic Studies at the Institute for Social Research (2008) *Romų padėties tyrimas: romai švietimo ir darbo rinkos sankirtoje*, p. 85

Secondary sources indicate a stable population trend among Roma living in Lithuania. Statistical data on the enrolment of Roma pupils at Lithuanian secondary schools show similar levels of matriculation in 2000-2001 (571 pupils) and in 2008-2009 (579 pupils).⁴⁷ However, it is difficult to assess the impact of any policy measures designed to enrol Roma children in schools because no relevant initiatives have been developed in recent years.

The majority of Lithuanian Roma are sedentary. According to survey data from 2008, more than half of the Roma respondents (52 per cent) indicated⁴⁸ that they had been living for more than 20 years in their current city, town or village. Over one-fourth of respondents (27 per cent) indicated that they had been living in the same municipality for 11-20 years, and approximately one-fifth (21 per cent) of respondents indicated that they had been living in the same municipality for approximately ten years. The duration of residence at a given location is often affected by a person's age, as middle-aged Roma are slightly less sedentary than the Roma population at large. The majority (74 per cent) of Roma respondents aged 26-40 reported to have been living in the same municipality for fewer than five years; this age group accounts for 70 per cent of respondents who said that they had been living in the same place for six to ten years. Judging by these figures, Roma persons aged 26-35 change their housing more frequently than elder Roma.

Roma were also questioned about the type of their housing (whether they lived in a flat, a house, or a room in a shared house). According to the survey⁴⁹ data, Roma tend to change housing type more often than they change their geographic place of residence. For example, one-third (34 per cent) of Roma respondents indicated that they had been living in the same type of housing for less than three years; one-tenth (9 per cent) of respondents said that they had been living in the same type of housing for four to five years. Around 15 per cent of respondents said that they had been living in the same type of housing for more than 21 years. One-fifth (21 per cent) of respondents claimed to have changed their geographic place of residence three or more times, whereas nearly half (48 per cent) of respondents said that they had changed housing types three or more times. The survey did not ask why respondents had changed their type of housing; no information is available on evictions of Roma persons and families.

No data are available concerning itinerant Roma, as there are very few itinerant Roma in Lithuania.

⁴⁷ Centre of Ethnic Studies at the Institute for Social Research (2008) *Romų padėties tyrimas: romai švietimo ir darbo rinkos sankirtoje*, pp. 17-18

⁴⁸ Centre of Ethnic Studies at the Institute for Social Research (2008) *Romų padėties tyrimas: romai švietimo ir darbo rinkos sankirtoje*

⁴⁹ Centre of Ethnic Studies at the Institute for Social Research (2008) *Romų padėties tyrimas: romai švietimo ir darbo rinkos sankirtoje*

No disaggregated data are available regarding other characteristics (e.g.: gender or disabilities) of the Roma population.

1.2.2. Data on the housing conditions of Roma and Travellers and non-Roma/Travellers, including location issues (e.g. any environmental concerns, proximity to services, workplaces, educational and healthcare institutions, etc.)

Although it is recognised that some of the Roma in Lithuania live in sub-standard housing,⁵⁰ no data exist regarding poverty, levels within the Lithuanian Roma community, including the lack of amenities or the need for renovation of living quarters. There are no generalised and up-to-date statistics regarding the amount and types of housing occupied by Roma individuals and families. Most information regarding Roma housing conditions in Lithuania is limited to studies of the Kirtimai settlement in Vilnius.

The increasing number of complaints regarding Roma housing issues sent to the Seimas Ombudsperson's Office⁵¹ from various locations in Lithuania indicates that the Roma live under severe and unsatisfactory conditions in places other than the Kirtimai settlement. In 2004-2008 the Seimas Ombudsperson's Office received 11 complaints filed by Roma; seven complaints targeted housing issues, and five of those complaints were filed in 2008 alone. Most complaints dealt with the demolition of buildings in the Kirtimai settlement in 2004, while other complaints focussed on a need for support or mediation in the provision of housing (for more information see paragraphs 142-145).

One of most detailed sources of quantitative information on Roma housing is the 2005 report *Lithuanian Roma and Statistics*,⁵² which presents and analyses data from the 2001 census. Although the report includes a chapter on housing, it provides data unevenly and applies inconsistent methods of analysis.

The report⁵³ indicated that, in 2001, 35 per cent of Roma households were living in housing constructed prior to 1946, while 64 per cent of Roma households were living in housing constructed in 1946-2000. For the Lithuanian

⁵⁰ Institute of Labour and Social Research (2001) *Romų gyvenančių Vilniaus miesto taboruose, sociologinis tyrimas*; Open Society Institute (2002), *Monitoring the EU Accession Process: Minority Protection*, Vol. 1, pp. 365-418

⁵¹ Communication of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) to the Seimas Ombudsperson's Office (26.03.2009)

⁵² E. Kučinskaitė, Lithuanian Roma Community Union Roma Mission (2005) *Lithuanian Roma and Statistics*

⁵³ E. Kučinskaitė, Lithuanian Roma Community Union Roma Mission (2005) *Lithuanian Roma and Statistics*, p. 48

population as a whole, these shares were 27 per cent and 73 per cent, respectively.

The report⁵⁴ also showed that, in 2001, the average amount of useful floor space per person in a Roma dwelling was 10 square metres. By comparison, the national average was 22.8 square metres of useful floor space per person in 2001.

Additionally, the report⁵⁵ indicated that Roma persons were living with significantly fewer amenities compared to the rest of the population. In 2001 only 65.6 per cent of Roma were living in conventional dwellings equipped with gas or electric cooking facilities, compared to 95.3 per cent of the total population. Furthermore, only 41.3 per cent of Roma dwellings had piped water (national average: 79.9 per cent), 37.2 per cent were connected to a sewer system (national average: 77.3 per cent), 33.7 per cent had a flushing toilet (national average: 68.6 per cent), and 26.5 per cent had piped hot water (national average: 67.8 per cent).

A 2001 study of living conditions in the Roma settlement of Kirtimai that was conducted by *Darbo ir socialinių tyrimų institutas* [Institute of Labour and Social Research] remains relevant even today.⁵⁶ Research indicated that the majority of Roma families (62 per cent) were living in single-room flats, while 30 per cent of families were living in two-room flats. Approximately one-fourth of study participants indicated that they would agree to rent a municipally owned flat if they were given the opportunity, but 40 per cent said that they would reject such an offer.⁵⁷

At the end of 2008, *Vilniaus miesto Socialinės paramos centras* [Vilnius City Centre of Social Support] carried out the needs assessment survey *Kirtimų gyvenvietėje gyvenančių romų apklausos apie socialinio būsto poreikius ir pageidavimus rezultatai* [Roma Living in Kirtimai Settlement on their Needs and Requests regarding Social Housing]. Eighty-six heads of households and their family members (a total of 233 adults) participated in the survey, which also provides information on 195 Roma children. Of the children who participated in the survey, 113 were of school age; however, 18 of these

⁵⁴ E. Kučinskaitė, Lithuanian Roma Community Union Roma Mission (2005) *Lithuanian Roma and Statistics*, p. 49

⁵⁵ E. Kučinskaitė, Lithuanian Roma Community Union Roma Mission (2005) *Lithuanian Roma and Statistics*, pp. 51-52

⁵⁶ Institute of Labour and Social Research (2001), *Romų, gyvenančių Vilniaus miesto taboruose, sociologinis tyrimas*.

⁵⁷ Institute of Labour and Social Research (2001) *Romų, gyvenančių Vilniaus miesto taboruose, sociologinis tyrimas*, pp. 29-32

children were not attending any kind of educational institution at the time of the survey.⁵⁸

The survey also provides information on 86 houses (small, one-storey wooden buildings) in the Kirtimai settlement. According to the survey data, 64 of the houses are equipped with electricity, while the remaining 22 houses have no electricity. All houses are heated using solid fuel. Fifty-four of the houses are equipped with gas cylinders. Forty-three box rooms for wood storage, four stables (barns) and three garages have been built near 45 of the houses. Three of the houses have nearby gardens. There is one water pump that is used by all inhabitants of the Kirtimai settlement.⁵⁹ There is no local sewerage in the settlement, and inhabitants of 53 of the houses use an outdoor toilet. Pay showers and washing facilities are available at the Roma Community Centre.

Sixty-nine of the 86 heads of the households who participated in the survey said that they were opposed to the idea of moving out of the Kirtimai settlement and into social housing,⁶⁰ The remaining 17 heads of households said that they would agree to move into social housing under certain conditions (e.g.: most would agree to move into a room in a rented house with partial amenities or a one-storey building without amenities and pay for rent and utilities; some would choose a house with amenities and farming facilities; some would agree to move into a rented flat with amenities in a Vilnius blockhouse and pay rent and utilities.

In addition, Roma residents of the Kirtimai settlement added their own comments to the survey. Most comments dealt with the improvement of their living conditions; the improvement of their surroundings, including housing renovations and the introduction waste collection, regular transportation, outdoor lighting and paved roads; the instalment of sewerage and a water supply system; and the legalisation of their houses, among other topics.⁶¹

According to a representative of the Roma community,⁶² there are four water pumps in the Kirtimai settlement. Despite inconsistent information regarding the number of water pumps in the Kirtimai settlement, it is clear that there is a lack of necessary facilities in the area.

⁵⁸ Vilnius City Centre of Social Support (2008) *Kirtimų gyvenvietėje gyvenančių romų apklausos apie socialinio būsto poreikius ir pageidavimus rezultatai*. By order of director of Social Affairs Department of Vilnius City Municipal Government Administration, No. A734-219(1.9-SR) (24.10.2008), the survey carried out by the Vilnius City Centre of Social Support, on 29 October-14 November, 2008. 86 heads of houses were interviewed.

⁵⁹ Vilnius City Centre of Social Support (2008) *Kirtimų gyvenvietėje gyvenančių romų apklausos apie socialinio būsto poreikius ir pageidavimus rezultatai*

⁶⁰ Vilnius City Centre of Social Support (2008) *Kirtimų gyvenvietėje gyvenančių romų apklausos apie socialinio būsto poreikius ir pageidavimus rezultatai*

⁶¹ Vilnius City Centre of Social Support (2008) *Kirtimų gyvenvietėje gyvenančių romų apklausos apie socialinio būsto poreikius ir pageidavimus rezultatai*

⁶² Interview of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) with a Roma NGO (18.03.2009)

Poor housing conditions have caused a number of health problems among the Roma. Overall wellness and life expectancy correspond to poverty and the conditions specific to the Roma living. Drug use, drug dealing and the availability of narcotics are all problems affecting the Kirtimai settlement⁶³ (for more information on Kirtimai see further). Also, the settlement is located in an industrial and possibly polluted area (several factories operate nearby); according to the general plan of the city, no residential houses should be allowed in this area.⁶⁴ The settlement is located close to Vilnius International Airport.

The Programme for the Integration of Roma into Lithuanian Society 2000-2004⁶⁵ recognised health care issues affecting the Roma community. Specifically, the programme indicated that the majority of Roma suffered from tuberculosis and other respiratory and gastrointestinal diseases. Most Roma are unable to access services provided by healthcare institutions, especially hospitals, because they have no health insurance, registration or personal identification documents. Children have the right to free healthcare in Lithuania, but no accurate statistics are available regarding Roma children. No healthcare facilities are located in Kirtimai.

The Vilnius Center for Addictive Disorders, which is funded by the Vilnius city municipality, has been implementing the healthcare programme Mobile Healthcare Services in Roma Community since the end of 2004 and beginning of 2005.⁶⁶ Under the programme, physicians come to the settlement in a minivan and stay for several hours each day. The objectives of the programme are to provide aid (methadone) to drug users and to expand healthcare services for all Roma in need. For some residents of the Kirtimai settlement, this is the only available opportunity to undergo medical checks, consult with doctors on various health issues and raise other concerns. The limited amount of space inside the minivan prevents the physicians from conducting comprehensive health checks, and residents seeking medical attention have to form queues

⁶³ Lithuania/Tautinių mažumų ir išėivijos departamentas (2008) *Romų integracijos į visuomenę 2008-2010 m. programa*, available in Lithuanian at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=317530&p_query=Rom%F8%20integracijos%20i%20Lietuvos%20visuomen%E6%202008-2010%20programa&p_tr2=2 (24.03.2009); Human Rights Monitoring Institute (2005) *Roma: Situation Assessment*, pp. 18-20, available at: http://www.hrmi.lt/downloads/structure//Romu_padeties_analize_20050412%20ENG121.pdf (17.03.2009)

⁶⁴ Interview of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) with a representative of the Social Assistance Division of the Vilnius city municipality (18.03.2009)

⁶⁵ Lithuania/Tautinių mažumų ir išėivijos departamentas (2000) *Romų integracijos į visuomenę 2000-2004 programa*, available in Lithuanian at: <http://www.tmid.lt/old/files/nutarimai/20000701Nr759.doc> (19.05.2009)

⁶⁶ Vilnius Centre for Addictive Disorders (2004) *Report for 09-31 December 2004 on the Mobile Healthcare Services in Roma Community programme*

outside the van. Some Roma remain wary of provided services and distributed medicines.

Physicians who have taken part in the programme specified the following healthcare needs among the Roma community living in Kirtimai:⁶⁷

- continuous methadone treatments for drug users;
- consultations with health experts, especially regarding the treatment of trophic ulcers;
- improved access to information about the types of available care (the majority of Roma have no health insurance and believe that polyclinics will provide only primary care in the case of serious health disorders and thus reluctantly visit polyclinics);
- regular treatment of contagious diseases such as pediculosis or scabies;
- due to the high level of illiteracy among the Roma, regular verbal instruction on disease treatment, proper medication usage and how to seek medical examinations conducted by general practitioners and specialists in both polyclinics and other healthcare institutions (e.g.: the names of healthcare institutions and their operating hours).

Due to the limited amount of funds allocated for the programme, doctors' visits to the settlement have been suspended several times and programme activities are irregular. As of 2009, the minivan still visits the Kirtimai settlement.

In 2006, researchers published the results of a survey on the health of Roma children.⁶⁸ The survey, which was conducted in 2004, found that most (74.9 per cent) of the Vilnius-area Roma children who participated in the study assessed their health as 'poor' or 'very poor', despite the fact that general morbidity among them was similar to the national average. By comparison, only 4.3 per cent of all pupils in Lithuania rated their health as 'poor' or 'very poor'.

According to a representative of Roma community,⁶⁹ children in the Kirtimai settlement frequently suffer from infectious diseases due to the poor quality of water in the area.

⁶⁷ Vilnius Centre for Addictive Disorders (2004) *Report for 09-31 December 2004 on the Mobile Healthcare Services in Roma Community programme*; Human Rights Monitoring Institute (2005) *Roma: Situation Assessment*, pp. 18-20, available at: http://www.hrmi.lt/downloads/structure//Romu_padeties_analize_20050412%20ENG121.pdf (17.03.2009)

⁶⁸ V. Kanapeckienė, R. Valintėlienė, J. Kalibatas, M. Šepte, T. Šepte (2006) 'Vilniaus ir Venstpilio romų vaikų socialinė aplinka', in: *Visuomenės sveikata*, Vol. 33, No. 2, pp. 26-31

⁶⁹ Interview of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) with a Roma NGO (18.03.2009)

Educational experts assert that Roma children face difficulties at secondary schools (e.g.: problems with homework and attendance and a high dropout rate) due to poor housing conditions, such as cramped quarters, inadequate heating, a lack of electricity.⁷⁰

Data from a 2008 survey regarding Roma relations with various social institutions⁷¹ confirm the results of previous research by *Socialinių tyrimų instituto Etninių tyrimų centras* [Centre of Ethnic Studies at the Institute for Social Research],⁷² which revealed that the Roma had limited social networks and were often self-reliant in finding solutions to their problems, addressing other Roma rather than institutions.

Most often, Roma consult with health care institutions, educational establishments and social support institutions. Relations with schools are rather weak. Among parents of Roma schoolchildren, 28 per cent indicated that they had not approached the school or had any contact with school employees within the previous 12 months. Over half (52 per cent) of respondents said that they had had no contact with a social worker within the past year. Women, most of whom are unemployed, approach social workers most often.⁷³

1.2.3. Data on housing tenure of Roma and Travellers (home ownership, social housing, private renting)

According to the 2005 report *Lithuanian Roma and Statistics*,⁷⁴ in 2001 the total number of conventional dwellings⁷⁵ with Roma inhabitants was 646; 16 non-residential⁷⁶ buildings with Roma inhabitants were also registered.⁷⁷

⁷⁰ Centre of Ethnic Studies at the Institute for Social Research (2008) *Romų padėties tyrimas: romai švietimo ir darbo rinkos sankirtoje*

⁷¹ Centre of Ethnic Studies at the Institute for Social Research (2008) *Romų padėties tyrimas: romai švietimo ir darbo rinkos sankirtoje*

⁷² Centre of Ethnic Studies at the Institute for Social Research (2007) *Romų ir darbdavių nuostatos dėl romų integracijos į darbo rinką. Tyrimo ataskaita* [Attitudes of Roma and Employers towards Roma Integration into the Labour Market. Research Report.]. Research was conducted at the request of the Lithuanian Children's Fund under Council Initiative EQ/2004/1130-01/477 (the EQUAL project); Centre of Ethnic Studies at the Institute for Social Research (2007) *Romų bendruomenės socialinės integracijos galimybių tyrimas. Tyrimo ataskaita*. [Opportunities for the Social integration of the Roma Community. Research Report.], available at:

<http://www.lygybe.lt/assets/Romų%20bendruomenės%20socialinės%20integracijos%20galimybių%20tyrimas.pdf> (20.03.2009). Study was conducted at the request of the Office of the Equal Opportunity Ombudsperson (OEOO).

⁷³ Centre of Ethnic Studies at the Institute for Social Research (2008) *Romų padėties tyrimas: romai švietimo ir darbo rinkos sankirtoje*

⁷⁴ E. Kučinskaitė, Lithuanian Roma Community Union Roma Mission (2005) *Lithuanian Roma and Statistics*, pp. 45-46

The report⁷⁸ also showed that in 2001 the ratio of households living in self-owned dwellings to households living in rented dwellings was 3.1:1 for Roma compared to 12.7:1 for the general population of Lithuania. The report indicated that a much greater proportion of Roma lived in public housing as compared to the population at large: the ratio of residents of private dwellings to residents of public/municipal dwellings was 4:1 for Roma as compared to 49.5:1 for the total Lithuanian population.

According to the survey data,⁷⁹ over one-third (38 per cent) of Roma respondents were living in housing that is self-owned or owned by a member of the household. Another 31 per cent of Roma respondents indicated that they were living in housing rented from the municipality. One-fifth (20 per cent) of respondents were living in housing owned by other relatives such as parents. Only 8 per cent of respondents said that they were living in housing rented from private third-party owners. No specific information is available on informal housing inhabited by the Roma.

Although the number of Roma living in housing that is self-owned or owned by a family member is small, analysis of the survey data reveals the following tendencies: women, respondents older than 40 years of age and those who have been living for more than ten years in the same housing indicate that the housing is owned by them or other family members. Also, respondents who indicated that they were living in self-owned housing or a dwelling owned by a family member tended to have comparatively smaller households (up to five persons); the majority of these respondents had between one and three children.

There is no generalised information regarding Roma all over the country, and no data are available on the number of Roma persons who are either applying for or renting social housing. The NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) contacted several municipalities with concentrations of Roma inhabitants in order to gather information on the provision of social housing to the Roma population.⁸⁰ These municipalities

⁷⁵ In the 2001 Census, a conventional dwelling was defined as an individual house or part of an individual house or apartment. Data show that the 2001 Census regarded buildings in the Kirtimai settlement as conventional dwellings. *Concepts and explanation*, available at: <http://www.stat.gov.lt/en/pages/view/?id=1669> (30.03.2009)

⁷⁶ In the 2001 Census, a non-residential building was defined as a building that is not a residential house but contains a dwelling. *Concepts and explanation*, <http://www.stat.gov.lt/en/pages/view/?id=1669> (30.03.2009)

⁷⁷ The legality of dwellings was not considered in the Census.

⁷⁸ E. Kučinskaitė, Lithuanian Roma Community Union Roma Mission (2005) *Lithuanian Roma and Statistics*, pp. 45-46

⁷⁹ Centre of Ethnic Studies at the Institute for Social Research (2008) *Romų padėties tyrimas: romai švietimo ir darbo rinkos sankirtoje*

⁸⁰ Communication of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) to the Vilkaviškis region (16.03.2009)

included Vilnius,⁸¹ the Šalčininkai region, which has a large Roma population in the town of Eišiškės;⁸² and the Vilkaviškis region,⁸³ which has a large Roma community in the town of Kybartai.⁸⁴

The lack of social housing is common throughout Lithuania, but the greatest levels of need are concentrated in the country's largest cities: in Vilnius (28 per cent of the whole social housing required), Kaunas (22 per cent) and Klaipėda (11 per cent). According to *Statistikos departamentas* [Department of Statistics to the Government of the Republic of Lithuania (Statistics Lithuania)]⁸⁵, as of 31.12.2008, 23,761 persons and families were enrolled on waiting lists for the social housing, representing a 17 per cent increase since 2007. In 2008 social housing was provided to 821 persons and families; by comparison, 922 persons and families received social housing in 2007. According to Statistics Lithuania, 429 persons and families received state-supported loans for the acquisition of housing in 2008; 698 persons and families received such loans in 2007.⁸⁶

Vilnius is home to the largest Roma community in the country. The majority of Roma in Vilnius live in the segregated and impoverished Kirtimai settlement. The Centre of Ethnic Studies at the Institute for Social Research has been collecting information on Roma issues from the Vilnius city municipality since 2005. According to data provided by the Vilnius city municipality, 11 Roma persons were added to the general queue for social housing in 2004. In 2005 the municipality received 40 applications for social housing from Roma persons, and eight flats in Vilnius were rented to Roma persons as social housing.⁸⁷ According to the municipality, few Roma were registered for social housing prior to 2004 due to fact that many Roma persons lacked documentation.

Data provided by the municipality indicate that 40 Roma persons enrolled on the list for the social housing each year in between 2005 and 2008.⁸⁸ The

⁸¹ Communication of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) to the Vilnius city municipality (10.10.2005)

⁸² Communication of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) to the Šalčininkai region (20.03.2009)

⁸³ Communication of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) to the Vilkaviškis region (16.03.2009)

⁸⁴ The town of Kybartai in the Vilkaviškis region is home to a concentrated Roma community. In 2008, 34 Roma school children attended primary school in Kybartai. Data collected by the Centre of Ethnic Studies at the Institute for Social Research in late 2008.

⁸⁵ Press release of Statistikos departamentas, '*Socialinio būsto nuoma ir valstybės remiami būsto kreditai*' (25.02.2009), available in Lithuanian at:

<http://www.stat.gov.lt/lt/news/view/?id=6993> (20.05.2009)

⁸⁶ Press release of Statistikos departamentas, '*Socialinio būsto nuoma ir valstybės remiami būsto kreditai*' (25.02.2009), available in Lithuanian at:

<http://www.stat.gov.lt/lt/news/view/?id=6993> (20.05.2009)

⁸⁷ Communication of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) to the Vilnius city municipality (10.10.2005)

⁸⁸ Communication of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) to the Vilnius city municipality, (10.10.2005, 05.10.2006, 17.09.2007, 23.09.2008, 12.03.2009)

municipality claims that 18 rooms or flats have been rented to Roma persons since 2006 as social housing. Although data on the gender and age of social housing applicants are not collected, most of this housing (14 flats) has been rented to Roma women.

According to the Vilnius city municipality,⁸⁹ there is a great shortage of social housing, and there is a long waiting time before an applicant is offered accommodation. As of the beginning of 2009, Roma have been included on the six waiting lists for social housing: young families (1,592 applicants; in 2008, six flats rented); families with three and more children (194 applicants; in 2008, three flats rented); orphans and abandoned children (604 applicants; in 2008, three flats rented); disabled persons (851 applicants; in 2008, two flats rented); tenants of social housing who are eligible to improve their living conditions (31 applicants; in 2008, one flat rented), and the pool of applicants not belonging to the aforementioned groups (1,947 applicants; in 2008, one flat rented). In total, 16 flats were rented as social housing in 2008, while the number of applicants in need of social housing exceeded 5,000.

According to the information of the Vilkaviškis region municipality,⁹⁰ 55 Roma (49 women and six men) were enrolled on the queue for social housing in 2002-2008. Of these applicants, 27 were on the 'young families' waiting list and 15 were on the 'disabled' waiting list. In 2002-2008, 13 Roma persons received social housing: six were in the list of young families and six - in the list of disabled persons. In total, four one-room flats, five two-room flats, three three-room flats and one detached house were rented to Roma persons and families in the Vilkaviškis region in 2002-2008.

According to the information provided by the Šalčininkai region municipality,⁹¹ seven Roma persons and 26 of their family members were enrolled on social housing queues in 2001-2008. One female Roma applicant and two of her family members received social housing (a one-room flat) in the Šalčininkai region, which is home to a Roma enclave in the village of Eišiškės.⁹² The Šalčininkai municipality has stated officially that it has no special housing programmes for Roma persons and families.

Housing conditions are very poor in some Roma dwellings located in Eišiškės.

⁸⁹ The queues for renting social housing available at the website of the Vilnius city municipality: <http://www.vilnius.lt:80/newvilniusweb/index.php/9/?env=3> (20.03.2009)

⁹⁰ Communication of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) to the Vilkaviškis region municipality (16.03.2009)

⁹¹ Communication of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) to the Šalčininkai region municipality (20.03.2009)

⁹² In 2008, 32 Roma children attended secondary school in Eišiškės. Data collected by the Centre of Ethnic Studies at the Institute for Social Research in late 2008.

1.2.4. Number of Roma/Travellers living in regulated encampments, and numbers of such areas in the country, with approximate duration of residence; Data on public utilities available in regulated encampments

No regulated encampments exist in Lithuania, and temporary encampments and halting sites are rare. The need for such encampments could not be identified.

1.2.5. Number of Roma/Travellers living in unregulated encampments, and numbers of such areas in the country, disaggregated by country/region, with approximate duration of residence; Data on public utilities available in unregulated encampments

No data are available on unregulated encampments and Roma living in the encampments in Lithuania.

However, in May 2008 several articles on Romanian Roma who were passing through or staying in Lithuania appeared in newspapers and were distributed via Internet portals.⁹³ For Roma persons in the EU, Lithuania is a transit country rather than a destination country.

Media reported that, for the third year in a row, Romanian Roma have stayed for a significant amount of time during the summer on Lithuanian camping grounds, particularly those located in Trakai National Park.⁹⁴ According to media sources, Romanian Roma typically assert that they are travelling to Riga (Latvia) or Moscow (Russian Federation). According to employees of Trakai National Park, the average group staying at the campground comprises ten persons with two automobiles. Trakai police claim that, at one point in 2007,

⁹³ L. Vyšniauskienė (2008) 'Rumunijos čigonai suka į Lietuvą', in *Lietuvos žinios* (05.28.2008), available at: <http://www.delfi.lt/news/daily/lithuania/article.php?id=17089475&rsslink=true> (23.03.2009); J. Lapėnienė (2008) 'Vasarėjant Trakuose ima siautėti čigonai' (05.25.2008), available at: <http://www.lrt.lt/news.php?strid=5042&id=4583318> (23.03.2009); Alfa.lt (2008) 'Vilnius traukia ES romus' (05.27.2008), available at: <http://www.alfa.lt/straipsnis/c73739> (23.03.2009)

⁹⁴ M. Kuizinaitė (2006) 'Paežerėse nuo vasaros negėsta čigonų laužai', in: *Lietuvos rytas/Sostinė* (20.09.2006), p. 3

300 Roma persons were simultaneously staying on the territory of the national park.⁹⁵

1.2.6. Number of Roma/Travellers living in segregated settings, and number of such areas in the country, with approximate duration of residence

The country's largest Roma settlement comprises about 500 persons and is located in the district of Kirtimai, an industrial area close to Vilnius International Airport. The Roma living in the outskirts of Vilnius could be considered ghettoised and discriminated against with regard to housing opportunities.

According to data presented in the 2008 report Roma Situation,⁹⁶ concentrations of Roma are much less dense in the city of Panevėžys and the town of Ukmergė (around 13 households living on a single street). Around one-fifth of Roma in the city of Klaipėda live close to the seaport. During Soviet times, areas with concentrated Roma populations were located in the town of Kėdainiai and in the Zokniai district of the city of Šiauliai. Areas with a significant Roma presence were referred to as 'garodokas', a localised version of the Russian word meaning 'small town'. Residents have since emigrated, and the areas are now abandoned; however, no quantitative data are available on this subject.

Sources provide varying estimates of the population and number of houses that make up the Kirtimai settlement. These numbers are constantly changing as Roma persons and families move in and out of the settlement. On average, the number of inhabitants ranges from 350 to 500 and the number of houses ranges from 78 to 99.

According to the 2005 report Lithuanian Roma and Statistics,⁹⁷ the Roma population of Kirtimai numbered 428 persons living in 72 houses in 2001.

According to the information provided by the Department of National Minorities and Lithuanians Living Abroad, the main settlement in Kirtimai comprised 78 houses with 354 inhabitants in 2004.⁹⁸

⁹⁵ J. Lapėnienė (2008) 'Vasarėjant Trakuose ima siautėti čigonai' (05.25.2008), available at: <http://www.lrt.lt/news.php?strid=5042&id=4583318> (23.03.2009)

⁹⁶ Centre of Ethnic Studies at the Institute for Social Research (2008) *Romų padėties tyrimas: romai švietimo ir darbo rinkos sankirtoje*

⁹⁷ E. Kučinskaitė, Lithuanian Roma Community Union Roma Mission (2005) *Lithuanian Roma and Statistics*, p. 48

⁹⁸ Communication of the NFP-Lithuania to officials of the Department of National Minorities and Lithuanians Living Abroad to the Government of Lithuania (11.06.2004)

According to data provided in the Programme of Surveillance and Security of the Vilnius Roma Community and Territories near the Encampment and the Reduction of Roma Segregation for 2005-2010⁹⁹ that was implemented by Vilnius city municipality, in 2004, 511 Roma (365 adults and 146 children) were living in Kirtimai, inhabiting 99 illegally constructed buildings.

According to material from the Vilnius City Centre of Social Support,¹⁰⁰ a needs assessment survey carried out in Kirtimai in late 2008 provides information on 86 houses and 428 Roma persons (233 adults and 195 children).

According to a representative of the Roma community,¹⁰¹ around 500 people currently live in the Kirtimai settlement. In total, there are 107 houses in Kirtimai (80 houses in the 'higher' part of the settlement and 27 houses in the 'lower' part), all of which belong to Roma persons (although they have no documents establishing legal ownership of the buildings). The same number of Roma living in Kirtimai settlement was cited by a representative of the Vilnius city municipality in March 2009.¹⁰²

According to a representative of the Roma community,¹⁰³ Roma persons have lived in Kirtimai since 1930. In 1954, the first barrack (bunkhouse) was built in 'lower' Kirtimai. Most houses in the settlement were built in 1954 or later. There is no possibility of renovating these dwellings, as they are considered illegal structures.

According to the representative of the Seimas Ombudsmen's Office,¹⁰⁴ state enterprise *Registru centras* [The Centre of Registers] reported that 134 buildings in Kirtimai settlement, including 43 residential buildings and 91 structures for auxiliary use and engineering purposes, are listed in the real estate register. The buildings have registration numbers; however, material rights such as property and rent are not registered. One building was registered in 1966, and another was registered in 1969; the remaining buildings were registered in 1982. No other data are available.

⁹⁹ Council of the Municipality of Vilnius, Programme of Surveillance and Security of the Vilnius Roma Community and Territories near the Encampment and the Reduction of Roma Segregation for 2005-2010, decision No. 1-838, confirmed on 22.06.2005, available in Lithuanian at: <http://www.vilnius.lt/vaktai/Default.aspx?Id=3&DocId=30075568> (19.03.2009)

¹⁰⁰ Vilnius City Centre of Social Support (2008) *Kirtimų gyvenvietėje gyvenančių romų apklausos apie socialinio būsto poreikius ir pageidavimus rezultatai*

¹⁰¹ Interview of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) with a Roma NGO (18.03.2009)

¹⁰² Interview of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) with a representative of the Social Assistance Division of the Vilnius city municipality (18.03.2009)

¹⁰³ Interview of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) with a Roma NGO (18.03.2009)

¹⁰⁴ Interview of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) with the Seimas Ombudsmen's Office (23.03.2009)

1.2.7. Data on household type and size, including overcrowding, national room and space standards relating to overcrowding, and comparable room and space data for Roma and non-Roma

According to the 2005 report *Lithuanian Roma and Statistics*,¹⁰⁵ the average Roma household was one-and-a-half times larger than the national average household size.

According to 2008 survey data,¹⁰⁶ the average Roma household consisted of six to seven persons, while the national average household size was 2.4 persons in 2007.¹⁰⁷ Households consisting of four to five persons were the most common among survey participants; nearly one-third (32.7 per cent) of respondents indicated that they were living in a household of this size. Comparatively large households of eight or more persons were the second-most common living arrangement among surveyed Roma, accounting for 29 per cent of the total. Twenty-seven per cent of Roma surveyed were living in households of six to seven persons. Only 11 per cent of Roma households were comprised of one-three persons. Nearly half (49 per cent) of all Roma surveyed had between one and three children under 16 years of age, while 24 per cent had four children under 16 years of age and 25 per cent had five or more children under 16 years of age.

According to the data of a Roma situation survey 2008,¹⁰⁸ experts on Roma education maintain that Roma households vary with regard to family structure; some households are made up of nuclear families, while others consist of several generations of family members. In a single region, town or city, the number of children in a Roma household ranges from one to ten. The experts espoused the widespread opinion that the number of Roma families with few children has increased in recent years in regions where the Roma live in concentrated areas. Also, young Roma women are tending to postpone their first pregnancy until later in life, the experts said.

¹⁰⁵ E. Kučinskaitė, Lithuanian Roma Community Union Roma Mission (2005) *Lithuanian Roma and Statistics*, p. 50

¹⁰⁶ Centre of Ethnic Studies at the Institute for Social Research (2008) *Romų padėties tyrimas: romai švietimo ir darbo rinkos sankirtoje*

¹⁰⁷ Press release of Statistikos departamentas 'Lietuvos šeima šiandien' (11.05.2007), available at: <http://www.stat.gov.lt/lt/news/view/?id=2306> (17.03.2009)

¹⁰⁸ Centre of Ethnic Studies at the Institute for Social Research (2008) *Romų padėties tyrimas: romai švietimo ir darbo rinkos sankirtoje*. Interviews with experts on Roma education were also carried out.

1.2.8. Data on the forced evictions conducted, including data on the cases where alternative accommodation has been provided

No information on forced evictions is available in Lithuania. However, the demolition of housing in the Kirtimai settlement by the Vilnius city municipality at the end of 2004 could be viewed in this context (for more information see paragraph 123).

1.2.9. Data on access of Roma/Travellers to public utilities, broken down per residential type

No data are available regarding the access of the Roma to public utilities. In general, a significant portion of the Roma lives in sub-standard dwellings, and there are Roma families throughout the country who have no access to public utilities (mainly sanitary facilities, water, and electricity). Also, areas populated by Roma frequently have sub-standard access to public transportation.

1.2.10. Data on available halting sites and the estimated numbers of halting sites needed to ensure legal space for all Roma and Travellers, as well as the technical criteria that halting sites should conform to

Halting sites are not commonly found in Lithuania.

1.3. Qualitative information on the housing situation of Roma and Travellers

No governmental reports on Roma issues, including housing, are available in Lithuania. The problems that Roma face in accessing adequate housing are addressed only in reports of international bodies, non-governmental organisations and academic institutions.

Most studies, surveys,¹⁰⁹ overviews¹¹⁰ and reports¹¹¹ on Roma issues have focused on the general conditions of the Roma, including aspects such as education, employment, health, social services and living conditions. Also, most information on Roma issues pertains to conditions in the Kirtimai settlement rather than the conditions of Roma throughout the country. Only one study specifically targeting Roma housing issues was conducted, but this study – The Problem of Vilnius Roma Housing: Legal Analysis¹¹² – was restricted to housing issues in the Kirtimai settlement.

In March 2006 the non-governmental organisation *Žmogaus teisių stebėjimo institutas* [Human Rights Monitoring Institute (HRMI)] released a report on Roma housing entitled *The Problem of Vilnius Roma Housing: Legal Analysis*.¹¹³ The report was part of a larger project on Roma rights that was prompted by the ongoing neglect of Roma housing in the impoverished Kirtimai settlement. The report concluded that the legalisation of buildings in Kirtimai is possible in legal terms, but there is a lack of political will to administer the process. Social housing is not a realistic option for most Roma due to the

¹⁰⁹ Institute of Labour and Social Research (2001) *Romų, gyvenančių Vilniaus miesto taboruose, sociologinis tyrimas*; Centre of Ethnic Studies at the Institute for Social Research (2007) *Romų ir darbdavių nuostatos dėl romų integracijos į darbo rinką. Tyrimo ataskaita*; Centre of Ethnic Studies at the Institute for Social Research (2007) *Romų bendruomenės socialinės integracijos galimybių tyrimas. Tyrimo ataskaita*, available at:

<http://www.lygybe.lt/assets/Romu%20bendruomenės%20socialinės%20integracijos%20galimybių%20tyrimas.pdf> (20.03.2009); Centre of Ethnic Studies at the Institute for Social Research (2008) *Romų padėties tyrimas: romai švietimo ir darbo rinkos sankirtoje*

¹¹⁰ HRMI (2005) *Roma: Situation Assessment*, available at: http://www.hrmi.lt/downloads/structure/Romu_padeties_analize_20050412%20ENG121.pdf (25.03.2009); HRMI (2005) *The Problem of Vilnius Roma Housing: Legal Analysis*, available in Lithuanian at: http://www.hrmi.lt/admin/Editor/assets/Romu_bustas_tyrimas_.pdf (25.03.2009)

¹¹¹ Open Society Institute; ECRI; the Committee on the Elimination of Racial Discrimination (CERD); ENAR

¹¹² HRMI (2005) *The Problem of Vilnius Roma Housing: Legal Analysis*, available in Lithuanian at: http://www.hrmi.lt/admin/Editor/assets/Romu_bustas_tyrimas_.pdf (25.03.2009); United States of America/Bureau of Democracy, Human Rights, and Labor of the U.S. Department of State (2008) *2008 Human Rights Report: Lithuania*, available at: <http://www.state.gov/g/drl/rls/hrrpt/2008/eur/119089.htm> (18.03.2009)

¹¹³ HRMI (2005) *The Problem of Vilnius Roma Housing: Legal Analysis*, available in Lithuanian at: http://www.hrmi.lt/admin/Editor/assets/Romu_bustas_tyrimas_.pdf, (25.03.2009)

extremely limited amount of municipally owned flats available in Vilnius and the fact that such flats are prohibitively expensive, as the high level of unemployment among Roma persons has adversely affected their ability to pay rent. Above all, the study highlighted the fact that legal uncertainty regarding the Roma housing issue has resulted in the vulnerability of Roma housing rights, violating international requirements for the protection of national minorities.

There are two main problems regarding Roma housing issues in Lithuania: (1) the poor quality of existent housing; (2) limited opportunities to legitimise one's present form of housing, which may involve illegal construction works or dwellings on state-owned land, or to change one's place of residence.

1.3.1. International reports

A 2002 report by the Open Society Institute provided an assessment of the Programme for the Integration of Roma into Lithuanian Society 2000-2004 and included a chapter on housing.¹¹⁴ The report highlighted problems related to housing in the Kirtimai settlement and concluded that the programme did not improve significantly the living conditions of residents of the Kirtimai settlement.

The European Commission against Racism and Intolerance (ECRI) explicitly addressed the Kirtimai settlement in paragraph 61 of its Second Report on Lithuania¹¹⁵ and urged Lithuanian authorities to ensure that dwellings inhabited by members of the Roma/Gypsy community meet, at the very least, basic standards of adequate housing. Also, ECRI stated that Lithuanian authorities should implement measures to overcome the practical segregation of Roma/Gypsy communities with regard to housing.

In its Third Report on Lithuania, which was conducted in 2005, the ECRI¹¹⁶ recommended repeatedly that Lithuanian authorities undertake measures to improve the housing situation among the Roma population. In particular, the commission strongly recommended that Lithuanian authorities actively seek a long-lasting solution to the housing situation of the Roma in Kirtimai and advised that they do so in close cooperation with residents of the settlement. The ECRI also recommended that Lithuanian authorities ensure that all claims for compensation for the unlawful destruction of property be examined and processed thoroughly and swiftly.

¹¹⁴ Open Society Institute (2002) *Monitoring the EU Accession Process: Minority Protection 2002. Country Reports*, pp. 395-397

¹¹⁵ ECRI (2002) *Second Report on Lithuania*, p. 22

¹¹⁶ ECRI (2005) *Third Report on Lithuania*, p. 25

In Articles 3 and 5 of its Concluding Observations of the Committee on the Elimination of Racial Discrimination on the Second and Third Periodic Reports of the Republic of Lithuania, the UN Committee on the Elimination of Racial Discrimination (CERD)¹¹⁷ reiterated its concern about 'the isolation of Roma community in ghetto-like neighbourhoods and their critical situation in respect of housing conditions, especially in Vilnius, where Roma community is concentrated'.¹¹⁸ The committee recommended that the Lithuanian government effectively implement policies and projects aimed at avoiding the segregation of Roma communities in housing; that it involve Roma communities and associations as partners in housing construction, rehabilitation and maintenance projects; and that it dedicate sufficient funding to these goals. Furthermore, the Committee encouraged authorities to take into account the fact that living in a proper environment is an essential prerequisite for families, and particularly children, to access to education and employment on an equal footing.

The issue of Roma housing conditions has been raised in European Network against Racism (ENAR) Shadow Reports on Racism in Lithuania in 2005, 2006 and 2007.¹¹⁹ The reports address unsatisfactory living standards and the legal status of buildings in the Kirtimai settlement.

The Bureau of Democracy, Human Rights, and Labour at the U.S. Department of State¹²⁰ addressed Roma issues, including discrimination in access to education, housing, healthcare and other services, in its 2008 study Human Rights Report: Lithuania. The report also included a description of the pending court case related to the demolition of Roma houses in Kirtimai at the end of 2004.

¹¹⁷ CERD (2007) *The Concluding Observations of the Committee on the Elimination of Racial Discrimination on the Second and Third Periodic Reports of the Republic of Lithuania*, available at: <http://www.ohchr.org/english/bodies/cerd/docs/CERD.C.LTU.CO.3.pdf>, (25.03.2009)

¹¹⁸ CERD (2007) *The Concluding Observations of the Committee on the Elimination of Racial Discrimination on the Second and Third Periodic Reports of the Republic of Lithuania*, available at: <http://www.ohchr.org/english/bodies/cerd/docs/CERD.C.LTU.CO.3.pdf>, (25.03.2009)

¹¹⁹ E. Ziobiene, Lithuanian Centre for Human Rights (2005) *ENAR Shadow Report 2005: Racism in Lithuania*, available at: http://cms.horus.be/files/99935/MediaArchive/national/Lithuania_2005.pdf (24.03.2009); G. Andriukaitis, Lithuanian Centre for Human Rights (2006) *ENAR Shadow Report 2006: Racism in Lithuania*, available at: http://cms.horus.be/files/99935/MediaArchive/national/Lithuania_2006.pdf (24.03.2009); G. Andriukaitis, Lithuanian Centre for Human Rights (2007) *ENAR Shadow Report 2007: Racism in Lithuania*, available at: <http://cms.horus.be/files/99935/MediaArchive/pdf/en/Lithuania%20-%20SR%202007.pdf> (24.03.2009)

¹²⁰ United States of America/Bureau of Democracy, Human Rights and Labor of the U.S. Department of State (2008) *2008 Human Rights Report: Lithuania*, available at: <http://www.state.gov/drl/rls/hrrpt/2008/eur/119089.htm> (18.03.2009)

1.3.2. Quality of Roma Housing

The issue of Roma housing quality is most evident in the Kirtimai settlement, where dwellings do not meet standards in terms of heating, outdoor toilets, water pumps and limited access to public transportation. The Kirtimai settlement was equipped with basic amenities such as water, electricity and waste collection in 2001, and further – perhaps final – developments were carried out in early 2004. The fact that Roma housing, regardless of the overall quality inside, are often located in disadvantaged places in terms of infrastructure and should be considered in the context of housing quality. The accessibility of public services, education and healthcare institutions should also be taken into account. In general, Roma housing in Kirtimai and some other areas in Lithuania is of low habitability.

The Roma housing issue rose in prominence after Vilnius city municipality demolished buildings in the Kirtimai settlement on 2-3.12.2004. The court case related to the housing demolitions has been pending for four years and has not created any precedence for the solution of Roma housing issues.

According to a representative of the Vilnius city municipality,¹²¹ there are similar unsatisfactory housing conditions in other outskirts of Vilnius. Some rural areas are included within the city limits of Vilnius; however, these areas represent only a small portion of the city's overall territory. Roma issues do not reach priority level due to the complexity of the problems. Representatives of the municipality understand the need to develop a large project to address Roma issues, but there is a lack of consensus and political will to implement such a project. A representative of the Vilnius city municipality¹²² said in an interview that there was an absence of knowledge on how to solve the problem of a lack of a strategic approach toward Roma issues. Also, the lack of political will to address Roma issues is closely related to the level of knowledge and recognition of problems facing the Roma. Changes in the political composition of the municipal council and administration affect officials' ability to pursue opportunities for continuous activities with regard to Roma issues.

The actions taken by the Vilnius city municipality to demolish buildings in Kirtimai deserve elaboration. Six buildings were demolished in Kirtimai on 2-3.12.2004 by order of the municipality, which based its decision on the claim that the buildings were illegal and that their removal would cut down on drug-related crime. Kirtimai residents applied to various institutions for both compensation and a legal decision concerning the destruction of five of the

¹²¹ Interview of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) with a representative of the Social Assistance Division of the Vilnius city municipality (18.03.2009)

¹²² Interview of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) with a representative of the Social Assistance Division of the Vilnius city municipality (18.03.2009)

buildings (the sixth one was vacant). The Seimas Ombudsperson's Office¹²³ and the Office of the Equal Opportunities Ombudsperson (OEEO)¹²⁴ found that the municipality's actions were illegal; however, cases with regard to the housing demolitions are pending.

The inconsistency of actions undertaken by the authorities to implement changes with regard to Roma issues only complicates the situation and deepens the exclusion of the Roma community. At the beginning of the demolition campaign, officials stressed that all buildings in the settlement were illegal and that they would be torn down; such statements were juxtaposed to the earlier implementation of improvements in the settlement, such as outside lightening, waste collection, and paved roads. The Roma Community Centre was set up with government support in order to normalise the living conditions in the settlement by providing lavatories and laundries and offering educational courses and preparatory classes for pre-school-aged Roma children.

The aforementioned actions indicate the absence of strategic solutions with regard to Kirtimai, and sporadic, one-off actions dominate public policy toward the settlement.

Resolving the Roma housing issue is a complicated task in the absence of a detailed plan aimed at improving the situation. The absence of such a plan makes it impossible to introduce reforms in the Kirtimai settlement.

1.3.3. Opportunities to legitimise present housing or change place of residence

Opportunities for Roma to change their place of residence or improve their housing situation are very limited. In general terms, no improved living conditions are available for Roma in Lithuania.

Most buildings in Kirtimai have been around for decades, yet all of them are registered under a single address (Dariaus ir Girėno str. 185). Due to the unresolved issue of land ownership, residents have no means to register and legitimise their homes since they do not own the land on which their dwellings are located.

¹²³ Lithuania/Seimo kontrolierių įstaiga/Pažyma No. 4D-2004/03-1760(01) (11.08.2005). This was the institution's second investigation regarding the same issue; the previous one was initiated immediately after the demolitions (Lithuania/Seimo kontrolierių įstaiga/Pažyma No. 4D-2004/03-1716 (13.12.2005)). However, The Seimas Ombudsperson's Office examines the actions of official bodies and does not directly address the issue of racial discrimination.

¹²⁴ The Equal Opportunities Ombudsperson issued a warning to the mayor of Vilnius. Lithuania/OEEO/Pažyma No.(04)-SN-66 (25.03.2005)

With regard to the Kirtimai settlement, the issue of legalising Roma-inhabited houses remains unresolved. According to the Seimas Ombudsperson¹²⁵ responsible for addressing claims in Vilnius County, a long-term detailed plan for housing policy measures and the development of the territory has not been prepared. The Kirtimai settlement is located in an industrial territory, in which according to the general city plan, no residential houses should be constructed. The territory is located on state-owned land; therefore, Roma dwellings constructed in the settlement are considered illegal.

However, the issue of the legality of houses in the settlement is unresolved. In early 2008 residents of Kirtimai requested the assistance of the Seimas Ombudsperson¹²⁶ in resolving the issues of their living conditions, land and legalisation of property. The investigation is still pending; even though much material has been collected and archives have been checked, the Ombudsperson has recognised the complexity and durability of the issue, as well as the limitations of a single ombudsperson making a decision on the matter.

According to a lawyer who is representing the Roma in the 2004 housing demolition case,¹²⁷ acting legislation does not allow for the opportunity to legalise houses that were constructed illegally due to amendments introduced to the Civil Code¹²⁸ and the Law on Construction¹²⁹ in 2006-2007. However, such a course of action was possible in 2004. In the lawyer's opinion, exceptions to the current regulations could be made if the Roma or organisations representing their interests took a more active position.

1.3.3.1. Social Housing Alternatives

A 2005 report by HRMI entitled 'Roma: Situation Assessment'¹³⁰ included a chapter on Roma housing that highlighted issues still relevant today. The report expressed doubts as to whether social housing would constitute a desirable and realistic alternative to the present housing situation of Roma living in Lithuania. Many Roma officially have no permanent place of residence (i.e.: they are not 'registered' at a certain address); therefore, pursuant to effective laws, they are not entitled to social housing provided by the municipality. If a Roma person is

¹²⁵ Interview of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) with the Seimas Ombudsmen's Office (23.03.2009)

¹²⁶ Interview of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) with the Seimas Ombudsmen's Office (23.03.2009)

¹²⁷ Interview of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) with a lawyer representing Roma interests in the court case (20.03.2009)

¹²⁸ Lithuania/17.10.2006 No. X-858 (31.10.2006)

¹²⁹ Lithuania/21.12.2006 No. I-1240 (21.12.2006); Lithuania/03.05.2007 No. X-1111 (19.05.2007)

¹³⁰ HRMI (2005) *Roma: Situation Assessment*, pp. 16–18, available at: http://www.hrmi.lt/downloads/structure//Romu_padeties_analize_20050412%20ENG121.pdf (17.03.2009)

unable or not allowed to register at the place of his/her actual residence, then he/she cannot apply for social housing.

According to representatives of Roma organisations,¹³¹ there are cases in which some Roma families living in social housing in Vilnius had vacate the premises due to their inability to pay rent. The higher cost of housing – even social housing – in the city compared to in Kirtimai also aggravates the issue. Usually, Roma persons and families living in Kirtimai only have to pay for electricity and water, and they receive services from the municipality. In some houses, electricity has been disconnected due to unpaid debts. More deprived Roma understand the risk and limited possibilities of surviving in another place. In practice, few retirement-aged Roma persons have work experience hence they receive only minimal pensions. Unemployed persons have no way of knowing whether their irregular income would become regular or whether it would suffice to cover housing costs.

The social housing fund available to Lithuania's municipalities is not sufficient to meet the needs of the country's residents.¹³² Long queues for social housing are common in all municipalities and especially in urban areas. The quality of social housing is also poor.

Interviews with representatives of the Roma community¹³³ indicate that Roma persons have little knowledge pertaining to the provision of social housing; these individuals named only a small number of families that were provided social housing in the past few years.¹³⁴ According to these representatives, many Roma persons applied for social housing following the demolition of houses in Kirtimai and are currently enrolled in the queues. However, they also understand that real opportunities to attain social housing in their lifetime are limited. The representatives mentioned several needs-assessment surveys that were carried out in 2003 and 2005, but no actions to improve Roma living conditions have been identified or carried out as a result of the surveys.

The vast majority of Roma have either very few possibilities or none at all to improve their living conditions. Social housing is not necessarily a suitable alternative, as it increases living costs and many Roma question whether they can afford the added expense. The main obstacles preventing the construction of

¹³¹ Interview of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) with a representative of the Roma Community Centre (25.03.2009)

¹³² Press release of Statistikos departamentas, 'Socialinio būsto nuoma ir valstybės remiami būsto kreditai' (25.02.2009), available in Lithuanian at: <http://www.stat.gov.lt/lt/news/view/?id=6993> (20.05.2009)

¹³³ Interview of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) with a Roma NGO (18.03.2009); Interview of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) with a representative of the Roma Community Centre (25.03.2009)

¹³⁴ Interview of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) with a Roma NGO (18.03.2009)

new housing in Roma communities are the paltry or absent incomes of the Roma population and the high costs of construction. With regard to the affordability of private housing, most Roma do not qualify for bank loans intended to cover housing purchases due to a lack of steady, legal sources of income.

There is no evidence of either direct or indirect exclusion of Roma persons in private housing. No information is available on situation testing. However, in Lithuanian media coverage¹³⁵ of a Roma who received social housing for herself and her children in 2009, much attention was paid to her neighbours' fears that many more Roma would occupy the flat and place a burden on other residents.

According to 2008 survey data,¹³⁶ over 50 per cent of Roma are unemployed. Social benefits represent the main source of income for more than one-third of Roma surveyed, and parental contributions were also noted as a significant means of support.

However, Roma migration observed in the last decade does not overcome problems of social exclusion. Recent social research has shown poverty migration within the country as Roma gradually move to cheaper types of housing because of the prohibitively high expenditures associated with other forms of housing. This process indicates a deepening social marginalisation of Roma that started during a period of economic growth within the country. In this way, some members of the Roma community are isolated both geographically and socially from urban centres and opportunities for social development.¹³⁷

¹³⁵ Sostinė/Lietuvos rytas (2009) 'Miesto gyvenimas: nebeliko čiuożyklos, bet bus karietos' in: *Sostinė/Lietuvos rytas* (07.02.2009)

¹³⁶ Centre of Ethnic Studies at the Institute for Social Research (2008) *Romų padėties tyrimas: romai švietimo ir darbo rinkos sankirtoje*

¹³⁷ Centre of Ethnic Studies at the Institute for Social Research (2008) *Romų padėties tyrimas: romai švietimo ir darbo rinkos sankirtoje*

1.4. Case law and complaints relating to the housing of Roma and Travellers

The OEEO has investigated complaints alleging discrimination in various spheres and conducted self-initiated investigations since 2005. The OEEO provides a means to address discrimination in an easier way than through litigation. The OEEO recognises facts of ethnic or racial discrimination and instructs violators to discontinue violations of equal opportunities; however, no court/tribunal cases addressing ethnic or racial discrimination have occurred as a result of investigations carried out by the OEEO.

In 2005, the OEEO received four complaints with regard to Roma housing issues¹³⁸ (three of these complaints pertained to the same subject). All of the complaints dealt with the destruction of Roma houses in the Kirtimai settlement in late 2004. A warning was issued on the basis of one complaint, but investigations into the remaining complaints were discontinued. In its decision, the OEEO found that the Roma were racially discriminated against in the housing sector by the Vilnius municipality, thus violating the Law on Equal Treatment.¹³⁹ In 2006-2008 the OEEO received no complaints regarding discrimination in housing on the grounds of ethnicity or religious belief.¹⁴⁰

The Seimas Ombudsperson's Office aims to protect a person's right to good governance by safeguarding human rights and freedom and ensuring that state authorities fulfil their duty to properly serve the people. The office examines the actions of government organs and sends its conclusions and recommendations to certain institutions, but it does not address directly the issue of racial discrimination.

In 2004-2008, the Seimas Ombudsperson's Office received 11 complaints filed by Roma persons. Seven of these complaints dealt with housing issues.¹⁴¹ The office received several complaints regarding the removal of houses from the Kirtimai settlement in 2004. However, the number of Roma complaints from other regions of Lithuania has increased in recent years: two complaints were filed by residents of Ukmergė, two complaints were filed by residents of Šalčininkai, and one complaint was filed by a resident of Varėna. Roma complaints to the Seimas Ombudsperson's Office usually deal with the

¹³⁸ Communication of the NFP (Centre of Ethnic Studies at the Institute for Social Research) to the OEEO (20.03.2006)

¹³⁹ The complaint concerned the actions of the Vilnius municipality in demolishing buildings in the Roma settlement on 2-3.12.2004. The Equal Opportunities Ombudsperson issued a warning to the mayor of Vilnius. Lithuania/OEEO/Pažyma No.(04)-SN-66 (25.03.2005)

¹⁴⁰ Communications of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) to the OEEO (12.01.2007; 06.09.2007; 15.09.2008; 19.02.2009)

¹⁴¹ Communication of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) to the Seimas Ombudsperson's Office (26.03.2009)

provision of housing (seven complaints) and social support (two complaints). Several examples of Roma complaints regarding housing issues are provided in the paragraphs below:

In 2005 the Seimas Ombudsperson's Office considered a complaint filed by organisations representing Roma regarding the same case and concluded that the Vilnius municipality violated laws and that the head of the Public Order Department had exceeded his authority.¹⁴²

On 15 December 2006, a representative of the Roma community filed a request for assistance with the provision of housing to a Roma man. Thanks to the mediation of the Seimas Ombudsperson, the Ukmergė town municipality rented a dwelling to the individual for a period of one year (Pažyma No. 4D-2006/3-1675, issued on 31.01.2007). Similarly, on 16.01.2007 a representative of the Roma community filed a request for assistance in the provision of housing to a Roma woman. Following the intervention of the Seimas Ombudsperson, the Ukmergė town municipality rented a one-room dwelling (Pažyma No. 4D-2007/3-99, issued on 20.03.2007) to the woman.¹⁴³ Additional complaints are still pending.

One court case regarding the housing situation of the Roma is related to the demolition of houses in the Kirtimai settlement on 3.12.2004.

On 8 February 2007, *Vilniaus apskrities administracinis teismas* [the Administrative Court of Vilnius County] accepted the case for consideration. A request for compensation was submitted to the Court on behalf of twenty people who lost their houses.¹⁴⁴ The case was first decided in *Vilniaus apygardos administracinis teismas* [Vilnius Regional Administrative Court],¹⁴⁵ but both parties filed appeals of the court's ruling. Both the Vilnius Regional Administrative Court and *Lietuvos vyriausioji administracinis teismas* [Supreme Administrative Court] ruled that property rights cannot be claimed for a building that was constructed illegally (the plaintiffs claimed that they acquired property rights for the buildings under the Article 4.47 (Provisions regarding the acquisition of ownership right) of the Civil Code of Lithuanian Republic – by producing a new thing). Both courts concluded that the plaintiffs

¹⁴² Lithuania/Seimo kontrolierių įstaiga/Pažyma No. 4D-2004/03-1760(01) (11.08.2005). This was the institution's second investigation regarding the same issue; the previous one was initiated immediately after the demolitions (Lithuania/Seimo kontrolierių įstaiga/Pažyma No. 4D-2004/03-1716 (13.12.2005)). However, The Seimas Ombudsperson's Office examines the actions of official bodies and does not directly address the issue of racial discrimination.

¹⁴³ Communication of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) to the Seimas Ombudsperson's Office (26.03.2009)

¹⁴⁴ Press release of the Administrative Court of Vilnius County, 'Teisme - romų taboro gyventojų prašymas' (02.08.2007)

¹⁴⁵ The Vilnius city municipality administration was found guilty and was ordered to compensate non-pecuniary damages caused by the demolition of the buildings. The court decided that damage to the property cannot be claimed.

did not acquire rights to the demolished buildings and that they did not incur property damages. Although the Supreme Administrative Court affirmed the decision on property damages, it sent the case back to the lower court for additional proceedings on the assessment of non-pecuniary damages. The case is scheduled be heard in the Vilnius Regional Administrative Court on 4 September 2009.

On 21 August 2006, the non-governmental organisation HRMI announced¹⁴⁶ that a resident of the Kirtimai settlement (a 63-year-old ethnic Roma woman) requested Vilniaus miesto apylinkės prokuratūra [the Vilnius City Prosecutor's Office] to acknowledge her status as a victim in the case involving the demolition of her house on 2-3.12.2004 and to initiate a pre-trial investigation of the case. The press release distributed by HRMI indicates that the demolished house was built in 1979 and could not be treated as a building that was under construction or being reconstructed or renovated. The plaintiff submitted a claim for pecuniary and non-pecuniary compensation totalling LTL 53,520 (EUR 15,500). On 14.09.2006¹⁴⁷ it was announced that Vilnius policy officials had recognised the woman as a victim in a criminal case involving the demolition of houses in the Kirtimai settlement. As of 06.11.2008,¹⁴⁸ the pre-trial investigation was still underway (i.e.: police are still searching for suspects). The pre-trial investigation is being conducted under Article 228(1) (Abuse of Office) and Article 187(2) (Destruction of or Damage to Property) of the Criminal Code.

¹⁴⁶ HRMI (2006) 'Resident of Vilnius Kirtimai district is seeking compensation for demolition of her housing', in: *Human Rights Monitoring Institute* (21.08.2006), available at: http://www.hrmi.lt/admin/Editor/assets/news_roma.pdf (27.03.2009)

¹⁴⁷ HRMI (2006) 'Kirtimų gyventoja Anastazija Ragauskienė pripažinta nukentėjusiaja', in: *Human Rights Monitoring Institute* (14.09.2006), available at: <http://www.hrmi.lt/news.php?strid=1010&id=4036> (27.03.2009)

¹⁴⁸ Communication of NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) to the Human Rights Monitoring Institute, (26.03.2009).

1.5. Identifying good practices

No examples of good practice with regard to the Roma housing situation could be provided in terms of projects or policy measures. Even though the activities of the Seimas Ombudsmen's Office can not be prescribed formally to the category of good practices, the NFP-Lithuania considers their work relevant within the national context.

The activities of the Seimas Ombudsmen's Office could be mentioned as good practice.¹⁴⁹ In 2004-2008 the office received 11 complaints from Roma persons, seven of which were related to housing issues. The mediation of a Seimas Ombudsperson resulted in provision of temporary accommodations for a Roma man and social housing for Roman woman in Ukmergė in 2006-2007.

During the country-wide clean-up project *Darom 2008* [Let's Do It 2008] in spring 2008, an official from the Vilnius city municipality administration organised a cleaning event in the Kirtimai settlement.¹⁵⁰ The head the Roma non-governmental organisation *Čigonų laužas* [Gypsy Fire] said that the project was a beautiful initiative, and the Roma community willingly participated in the event.

¹⁴⁹ Communication of NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) to the Seimas Ombudsmen's Office (23.02.2009)

¹⁵⁰ Interview of the NFP-Lithuania (Centre of Ethnic Studies at the Institute for Social Research) with a representative of the Social Assistance Division of the Vilnius city municipality (18.03.2009)

1.6. Major national projects targeting the housing situation of Roma and Travellers that are not included in the previous section

No national projects targeting the housing situation of Roma in Lithuania could be mentioned. The programmes are already mentioned in Section on Legal and policy framework (see paragraphs 45-47); however, their impact on the housing situation of Roma is limited.

The interviews carried out indicate a lack of strategy developed for the improvement of Roma housing situation. The court cases have been pending for four years already. Complaints to the Seimas Ombudspersons' or Equal Opportunities Ombudsperson Offices have neither created precedence for the development of any policy measures.

Annexes

Annex 1 – Statistical data and tables

Please complete the table below (covering period 2000-2009)

	2000 - 2009
Number of complaints regarding ethnic discrimination received by complaints authorities (such as ombudsperson's offices and national equality bodies)	Four (three repeatedly, the same subject) complaints received by the OEOO in 2005
	Seven complaints received by the Seimas Ombudsperson's Office in 2004-2008
Number of instances where ethnic discrimination was established by complaints authorities (such as ombudsperson's offices and national equality bodies)	One, established by the OEOO in 2005
	One legal violation identified by the Seimas Ombudsperson's Office in 2005
Follow up activities of complaints authorities (such as ombudsperson's offices and national equality bodies), once discrimination was established (please disaggregate according to type of follow up activity: settlement, warning issued, opinion issued, sanction issued etc.)	One warning issued by the OEOO in 2005
Number of sanctions and/or compensation payment in ethnic discrimination cases (please disaggregate between court, equality body, other authorities or tribunals etc.) regarding access to housing (if possible, disaggregated by gender and age).	None (a court case in process)
Range of sanctions and/or compensation in your country (please disaggregate according to type of sanction/compensation)	None

Annex 2 – Court, specialised body or tribunal decisions

Case title	No. A-756-1626/2008
Decision date	26.09.2008
Reference details: (type and title of court/body; in original language and English [official translation, if available])	<i>Lietuvos vyriausias administracinis teismas</i> [The Supreme Administrative Court of Lithuania]
Key facts of the case (max. 500 chars)	The plaintiffs, 20 ethnic Roma, indicated that on 2-3.12.2004 6 buildings (5 habitable, 1 utility) were demolished by Vilnius city municipality administration before the term set by officers of building control to demolish the buildings voluntarily expired. The case was decided in Vilnius Regional Administrative Court, ¹⁵¹ both parties filed appeals.
Main reasoning/argumentation (max. 500 chars)	The plaintiffs argued that the buildings were demolished in violation of the law because the administration exceeded its authority and did not seek a court order to demolish the allegedly illegal buildings. The defendant claimed that the plaintiffs did not substantiate their claims to ownership of the demolished buildings and that the buildings were built illegally and did not meet safety, health, and other requirements hence should not be called habitable houses; the buildings were endangering lives and the demolition should be treated as defence of public interest.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	Both the Vilnius Regional Administrative Court and the Supreme Administrative Court decided that property rights cannot be claimed for a building that was constructed illegally (the plaintiffs claimed that they acquired property rights for the buildings under the Article 4.47.4 of the Civil Code of the Republic of Lithuania– by producing a new structure). Both courts concluded that the plaintiffs did not acquire rights to the demolished buildings and did not incur property damages.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The Supreme Administrative Court affirmed the decision on property damages (that damage to the property cannot be claimed), but sent the case back to the lower court for additional proceedings on the assessment of non-pecuniary damages. The case will be heard in the Vilnius Regional Administrative Court on 09.04.2009.

¹⁵¹ The Vilnius city municipality was found guilty and ordered to pay non-pecuniary damages caused by the demolition. The court decided that damage to the property cannot be claimed.

Administracinė byla Nr.A-756-1626/2008
Procesinio sprendimo kategorijos: 15.2.1.1; 15.2.3; 15.4(S)



LIETUVOS
VYRIAUSIASIS ADMINISTRACINIS TEISMAS

N U T A R T I S
LIETUVOS RESPUBLIKOS VARDU

2008 m. rugsėjo 26 d.
Vilnius

Lietuvos vyriausiojo administracinio teismo teisėjų kolegija, susidedanti iš teisėjų: Anatolijaus Baranovo (kolegijos pirmininkas), Dainiaus Raižio, Vaidos Urmonaitės (pranešėja), sekretoriaujant Indrei Mikaitei, dalyvaujant pareiškėjoms R. B. , V. T. B., pareiškėjų atstovui advokatui Tadiui Kelpšui, atsakovo atstovui Edvardui Varoneckui, vertėjai Gretai Maselskienei, viešame teismo posėdyje apeliacine tvarka išnagrinėjo administracinę bylą pagal pareiškėjų N. S. , S. S. (S. S.), V. S. , A. S. (A. S.), E. S. , A. S. , J. Č. , M. Č. , Z. Č. , A. Č. (A. Č.), L. J. , M. Č. , S. B. , O. B. , R. B. (R. B.), R. B. , T. B. , L. B. , L. B. , V. T. B. ir atsakovo Vilniaus miesto savivaldybės apeliacinius skundus dėl Vilniaus apygardos administracinio teismo 2007 m. gruodžio 18 d. sprendimo administracinėje byloje pagal pareiškėjų N. S. , S. S. , V. S. , A. S. , E. S. , A. S. , J. Č. , M. Č. , Z. Č. , A. Č. , L. J. , M. Č. , R. B. , O. B. , R. B. , R. B. , T. B. , L. B. , L. B. , V. T. B. skundą atsakovui Vilniaus miesto savivaldybei, dalyvaujant trečiajam suinteresuotam asmeniui UAB „Grinda“ dėl turtinės ir neturtinės žalos atlyginimo.
Teisėjų kolegija

n u s t a t ė:

I.

Pareiškėjai kreipėsi į teismą, prašydami atlyginti patirtą žalą: N. S. ir jos šeimai (sūnui S. S.) – 60 000 Lt turtinės žalos ir 500 000 Lt neturtinės žalos, V. S. ir jos šeimai (vaikams A. S. , E. S. , A. S.) – 40 000 Lt turtinės žalos ir 500 000 Lt neturtinės žalos, J. Č. – 500 000 Lt neturtinės žalos, M. Č. – 20 000 Lt turtinės žalos ir 500 000 Lt neturtinės žalos, Z. Č. ir jos šeimai (vaikams A. Č. , L. J. , M. Č.) – 500 000 Lt neturtinės žalos, R. B. – 500 000 Lt neturtinės žalos, O. B. – 500 000 Lt neturtinės žalos, R. B. – 40 000 Lt turtinės žalos ir 500 000 Lt

neturtinės žalos, R. B. ir jos šeimai (vaikams T. B. , L. B. , L. B.) – 500 000 Lt neturtinės žalos, V. T. B. – 30 000 Lt turtinės žalos ir 1 000 000 Lt neturtinės žalos, iš viso - 190 000 Lt turtinės žalos ir 5 500 000 Lt neturtinės žalos. Nurodė, kad 2004 m. gruodžio 2 – 3 d. romų taboro teritorijoje, Kirtimuose, Vilniuje, buvo nugriauti pareiškėjams priklausantys pastatai: 5 gyvenamieji ir 1 negyvenamasis pastatas (nuosavybės teisė į pastatus pareiškėjams atsirado Civilinio kodekso 4.47 straipsnio pagrindu – pagaminus naują daiktą). Priimant sprendimą griauti (demontuoti) pastatus (statinius) romų taboro teritorijoje, Kirtimuose, Vilniuje, nebuvo atsižvelgta į tai, kokį poveikį toks sprendimas turės romų būsto problemų sprendimui ir romų integracijos eigai. Vilniaus miesto savivaldybės administracijos tarnautojai, vykdydami pastatų (statinių) romų taboro teritorijoje griovimo (demontavimo) darbus, pažeidė pareiškėjų teisę į būstą, į būsto neliečiamumą, neatsižvelgė į tai, kad dėl tokių savavališkų ir neteisėtų veiksmų romų šeimos (dauguma jų su mažamečiais vaikais) liks be gyvenamosios vietos. Kartu buvo pažeista pareiškėjų teisė į privataus gyvenimo neliečiamumą. Savavališki statiniai buvo romų nuosavybė, o nuosavybės teisė yra prigimtinė žmogaus teisė ir ją riboti galima tik įstatymo nustatytais atvejais ir tvarka. Vilniaus miesto savivaldybės administracija savo neteisėtais veiksmais pažeidė vaiko teisių apsaugą reglamentuojančius teisės aktus, nors privalo užtikrinti vaiko teises, įtvirtintas tiek nacionaliniuose, tiek tarptautiniuose teisės aktuose. Tai patvirtino ir Seimo kontrolierė 2004 m. gruodžio 13 d. pažymoje Nr. 4D-2004/03-1716. Pastatų (statinių) griovimo (demontavimo) veiksmų neteisėtumą patvirtina tai, kad Vilniaus miesto savivaldybės administracija inicijavo ir atliko romų taboro esančių savavališkų pastatų (statinių) griovimą (demontavimą) be teismo sprendimo, neatsižvelgdama į tai, kad nei Civiliniame kodekse, nei Statybos įstatyme, nei Statybos techniniame reglamente STR 1.09.06:2002 „Statybos sustabdymas. Savavališkos statybos padarinių šalinimas“, nei kituose teisės aktuose nėra normų, suteikiančių teisę savivaldybėms atlikti kitų asmenų savavališkai pastatytų (statomų) pastatų (statinių) griovimo (demontavimo) darbus. Vilniaus miesto savivaldybės administracija pastatus (statinius) nugriovė dar nepasibaigus statybos valstybinę priežiūrą atliekančių pareigūnų statytojams nustatytam terminui nugriauti romų taboro teritorijoje, Kirtimuose, Vilniuje, esančius savavališkus statinius. Atsakovas nesilaikė Vietos savivaldos įstatyme 4 straipsnyje nurodytų principų, t. y. pastatų (statinių) griovimo (demontavimo) darbai buvo vykdomi viršijant įgaliojimus, pažeidžiant pareiškėjų teises ir laisves. Pastatų (statinių) griovimo (demontavimo) darbus romų taboro teritorijoje vykdė UAB „Grinda“ pagal 2004 m. gruodžio 16 d. sutartį Nr. 153/10 su atsakovu. Pareiškėjai dėl atsakovo neteisėtų veiksmų patyrė dvasinių, emocinių išgyvenimų, nepatogumų, nes negali jaustis saugiai, negali būti užtikrinti dėl savo ateities, todėl verčiami gyventi su baime. Netekusios gyvenamųjų būstų, pareiškėjų šeimos jautė ir iki šiol dar jaučia nepatogumą glausdamosios pas artimuosius ir pažįstamus jų perpildytuose namuose. Dar didesnę žalą patyrė mažamečiai vaikai, iš kurių buvo atimtas gyvenamasis būstas, pažeista teisė į būtinas ir tinkamas sąlygas vaikams augti ir vystytis. Pareiškėjai patyrė ilgalaikių išgyvenimų, iki šiol neišspręstas klausimas dėl jų gyvenamosios vietos.

Atsakovas Vilniaus miesto savivaldybė prašė bylą nutraukti, nes praleistas terminas skundai paduoti, arba skundą atmesti kaip nepagrįstą. Nurodė, kad pareiškėjai nepagrindė ir neįrodė kiekvienam iš jų padarytos turtinės žalos fakto ir dydžio. Nepateikiami jokie objektyvūs rašytiniai įrodymai, patvirtinantys, kad pareiškėjai buvo įgiję nuosavybės (ar kitą) teisę į pastatus ir/ar jų užimamą žemės sklypą. Nepagrindžiama, kokį kitą konkretų turtą ir teises šie pareiškėjai buvo įgiję iki galimai neteisėtų 2004 m. gruodžio 2–3 d. atsakovo veiksmų. Nepateikti rašytiniai įrodymai, sutartys, mokėjimo ir kiti dokumentai, kurie patvirtintų pareiškėjų galimai patirtas išlaidas, buvusio turto vertę. Įrodyti žalos dydį, jos padarymo faktą yra pareiškėjų pareiga, tačiau prašymo reikalavimuose nurodytos sumos apibūdintos tik abstrakčiai ir subjektyviai. Byloje nėra įrodymų, kad būtent šie asmenys ir jų šeimos yra nukentėję, kokioje konkrečioje vietoje, kokiam name tuo metu pareiškėjai gyveno ar buvo apsistoję. Neturtinės žalos padarymo faktas ir dydis grindžiami bendro pobūdžio teiginiais, nepateikus išsamaus žalos pagrindimo ir jos patvirtinimo, taip pat neįrodyti pareiškėjų dvasiniai išgyvenimai, nepatogumai, sukrėtimai, kurie sugriovė artimiausius jų planus. Asmens reikalavimas atlyginti jam padarytą neturtinę žalą yra vertintinas itin individualiai, todėl nukentėjusysis privalo nurodyti ir pagrįsti, kuo konkrečiai jam, kaip asmeniui, pasireiškė žalos padarymas, kokios konkrečios pasekmės dėl to jam atsirado, ar tos pasekmės atsirado būtent dėl atsakovo veiksmų. Vilniaus apskrities viršininko administracijos Teritorijų planavimo ir statybos valstybinės priežiūros departamento surašyti savavališkos statybos aktai, administracinio teisės pažeidimo protokolai, nutarimai patvirtina, kad statiniai buvo pastatyti savavališkai, nes jie neatitiko Statybos įstatymo 4 straipsnyje nurodytų mechaninių atsparumo ir pastovumo, gaisrinės saugos, higienos, sveikatos ir aplinkos apsaugos, saugaus naudojimo ir kitų reikalavimų, dėl kurių gali kilti reali grėsmė asmenų sveikatai ir gyvybei, todėl šie statiniai nepagrįstai vertinami kaip būstai. 2004 m. lapkričio 2 d. administracinio teisės pažeidimo protokolais ir 2004 m. lapkričio 4 d. priimtais nutarimais įrodytas pačių pareiškėjų veiksmų neteisėtumas. Reikalavimas atlyginti žalą turėtų būti atmestas, nes nebuvo priimtas nė vienas Vilniaus miesto savivaldybės administracijos, Vilniaus miesto savivaldybės tarybos ar kitos savivaldybės institucijos sprendimas, įsakymas, potvarkis ar kitas teisinis pasekmes sukeliantis teisės aktas, kuriuo būtų pažeistos pareiškėjų teisės ir interesai. 2004 m. gruodžio 16 d. su UAB „Grinda“ sudaryta sutartis dėl gatvių priežiūros ir avarijų likvidavimo darbų nepatvirtina, kad atsakovas atliko neteisėtus veiksmus – sutartis sudaryta ir įsigaliojo jau po pareiškėjų nurodomų 2004 m. gruodžio 2–3 d. įvykių. Jeigu teismas konstatuotų, kad buvo atlikti veiksmai, kurie sukėlė žalą, juos padaręs asmuo, atsakovo nuomone, turi būti atleistas nuo civilinės atsakomybės vadovaujantis Civilinio kodekso 6.253 straipsnio 6 dalimi kaip už veiksmus, padarytus dėl būtinojo reikalingumo. Romų taboro teritorijoje, valstybinėje žemėje, nesilaikant statybą reglamentuojančių įstatymų reikalavimų, buvo pastatyta 12 savavališkų statinių. Pastatyti statiniai (pastatai) neatitiko gaisrinės saugos, higienos, sveikatos ir aplinkos apsaugos, saugaus naudojimo reikalavimų, galėjo kilti reali grėsmė asmenų sveikatai ir gyvybei. Siekiant užtikrinti visuomenės ir valstybės interesus, kitos išeities kaip pašalinti

minėtoms vertybėms gresiantį pavojų nebuvo. Atsakovas pabrėžė, kad Vilniaus miesto savivaldybės administracijos veiksmų neteisėtumas galėjo būti konstatuotas tik Administracinių bylų teisenos įstatymo nustatyta tvarka, kreipiantis į administracinį teismą per minėto įstatymo 33 straipsnio 1 dalyje nustatytą terminą. Pareiškėjai šį terminą kreiptis į teismą dėl neteisėtų atsakovo veiksmų yra praleidę.

II.

Vilniaus apygardos administracinis teismas 2007 m. gruodžio 18 d. sprendimu pareiškėjų skundą tenkino iš dalies - priteisė pareiškėjams N. S. , S. S. , V. S. , A. S. , E. S. , A. S. , J. Č. , M. Č. , Z. Č. , A. Č. , L. J. , M. Č. , R. B. , O. B. , R. B. , R. B. , T. B. , L. B. , L. B. ir V. T. B. po 5 000 Lt (penkis tūkstančius litų) kiekvienam neturtinei žalai atlyginti. Kitoje dalyje skundą atmetė.

Teismas nustatė, kad pareiškėjai nepagrindė ir neįrodė kiekvienam iš jų padarytos turtinės žalos dydžio – nepateikiami jokie rašytiniai įrodymai, patvirtinantys, kad pareiškėjai buvo įgiję nuosavybės (ar kitą) teisę į pastatus ir/ar jų užimamą žemės sklypą, nepagrindžiama, kokį kitą konkretų turtą ir teises šie pareiškėjai buvo įgiję iki 2004 m. gruodžio 2–3 d. atsakovo veiksmų. Nepateikti rašytiniai įrodymai, sutartys, mokėjimo ir kiti dokumentai, kurie patvirtintų pareiškėjų galimai patirtas išlaidas, buvusio turto vertę. Byloje nėra įrodymų, kokioje konkrečioje vietoje, kokiam name tuo metu pareiškėjai gyveno ar buvo apsistoję. Teismas padarė išvadą, kad byloje nėra jokių įrodymų, patvirtinančių, kuo pasireiškė pareiškėjams padaryta turtinė žala, todėl reikalavimas priteisti turtinę žalą, atsižvelgiant į Civilinio kodekso 6.247, 6.249, 6.271 straipsnių nuostatas, yra nepagrįstas ir neįrodytas, todėl atmestinas.

Teismas nurodė, kad Vilniaus apskrities viršininko administracijos Teritorijų planavimo ir statybos valstybinės priežiūros departamento surašyti savavališkos statybos aktai, administracinio teisės pažeidimo protokolai ir nutarimai patvirtina, kad pareiškėjų statiniai buvo pastatyti savavališkai, jie neatitiko Statybos įstatymo 4 straipsnyje įtvirtintų mechaninių atsparumo ir pastovumo, gaisrinės saugos, higienos, sveikatos ir aplinkos apsaugos, saugaus naudojimo ir kitų reikalavimų. Tačiau ginčo pastatų (statinių) griovimo (demonravimo) veiksmų neteisėtumą patvirtina tai, kad Vilniaus miesto savivaldybės administracija inicijavo ir atliko romų tabore esančių savavališkų pastatų (statinių) griovimą (demonravimą) be teismo sprendimo, neatsižvelgdama į tai, kad nei Civiliniame kodekse, nei Statybos įstatyme, nei Statybos techniniame reglamente STR 1.09.06:2002 „Statybos sustabdymas. Savavališkos statybos padarinių šalinimas“, nei kituose teisės aktuose nėra normų, suteikiančių teisę savivaldybėms atlikti kitų asmenų savavališkai pastatytų (statomų) pastatų (statinių) griovimo (demonravimo) darbus. Vilniaus miesto savivaldybės administracija pastatus (statinius) nugriovė dar nepasibaigus statybos valstybinę priežiūrą atliekančių pareigūnų statytojams nustatytam terminui nugriauti romų taboro teritorijoje, Kirtimuose, Vilniuje, esančius savavališkus statinius. Atsakovas nesilaikė Vietos savivaldos įstatyme 4 straipsnyje nurodytų principų,

t. y. pastatų (statinių) griovimo (demonravimo) darbai buvo vykdomi pažeidžiant pareiškėjų teises. Nors atsakovas nurodo, kad nebuvo priimtas nė vienas Vilniaus miesto savivaldybės administracijos, Vilniaus miesto savivaldybės tarybos ar kitos savivaldybės institucijos sprendimas, įsakymas, potvarkis ar kitas teisinis pasekmes sukeliantis teisės aktas, kuriuo būtų pažeistos pareiškėjų teisės ir interesai, tačiau iš 2004 m. gruodžio 16 d. sutarties su UAB „Grinda“, 2005 m. vasario 15 d. PVM sąskaitos faktūros Nr. 0001349 ir 2005 m. vasario mėnesį atliktų darbų priėmimo akto Nr. 1024/02 matyti, kad savavališkai pastatytų statinių ardymo romų taboro teritorijoje darbus atliko UAB „Grinda“ pagal sutartį su atsakovu ir atsakovas už darbus sumokėjo. Nors sutartis buvo sudaryta ir įsigaliojo vėliau nei 2004 m. gruodžio 2–3 d., tačiau 2005 m. vasario 15 d. PVM sąskaita faktūra Nr. 0001349 ir 2005 m. vasario mėnesį atliktų darbų priėmimo aktas Nr. 1024/02 patvirtina, kad atsakovas atliko veiksmus, kurie sukėlė pareiškėjams moralinę žalą. Pareiškėjai dėl atsakovo neteisėtų veiksmų patyrė dvasinę skriaudą, emocinių nepatogumų, nes negali jaustis saugiai, verčiami nuolat gyventi su baime. Netekusios gyvenamųjų būstų, pareiškėjų šeimos jautė ir iki šiol dar jaučia nepatogumą, nes gyvena pas artimuosius ir pažįstamus. Dar didesnę moralinę žalą patyrė pareiškėjų mažamečiai vaikai, iš kurių buvo atimtas gyvenamasis būstas, pažeista teisė į būtiną ir tinkamą sąlygą vaikams gyventi. Pareiškėjai patyrė ilgalaikių išgyvenimų, iki šiol neišspręstas klausimas dėl jų gyvenamosios vietos. Atsakovas atliko veiksmus, kurie įstatymo nepriskirtini jo kompetencijai. Teismo teigimu, teisinėje valstybėje turi būti ginami visų asmenų teisėti lūkesčiai, kad įstatymo jiems suteiktos teisės valstybės institucijose bus įgyvendinamos laikantis įstatymo nustatytos tvarkos ir terminų. Faktinės bylos aplinkybės rodo, kad atsakovo darbuotojai pažeidė įstatymo nustatytą namų griovimo procedūrą.

Teismas pripažino pagrįstu pareiškėjų teiginį, kad dėl neteisėtų atsakovo veiksmų jie patyrė neigiamų išgyvenimų ir tuo jiems buvo padaryta neturtinė žala, kuri turi būti atlyginama. Teismas pareiškėjams priteisė po 5 000 Lt kiekvienam neturtinei žalai atlyginti.

Teismas atmetė atsakovo argumentą, kad pareiškėjai praleido terminą skundui paduoti – reikalavimams dėl žalos atlyginimo nustatytas trejų metų senaties terminas (Civilinio kodekso 1.125 str. 8 d.).

III.

Apeliaciniu skundu pareiškėjai prašo: 1) liudytojais apklausti 2007 m. lapkričio 13 d. prašyme „Dėl liudytojų apklausų“ nurodytus asmenis; 2) vadovaujantis 2007 m. gruodžio 10 d. prašymu „Dėl ekspertizės skyrimo“ byloje skirti ekspertizę; 3) panaikinti Vilniaus apygardos administracinio teismo sprendimą dalyje dėl atsisakymo pareiškėjams priteisti jiems padarytą turtinę žalą ir priteisti pareiškėjams turtinę žalą, nurodytą 2007 m. lapkričio 20 d. patikslintame prašyme bei pakeisti skundžiamą sprendimą toje dalyje, kurioje nuspręsta pareiškėjams priteisti po 5 000 Lt neturtinės žalos, ir priteisti

pareiškėjams neturtinę žalą, nurodytą 2007 m. lapkričio 20 d. patikslintame prašyme. Apeliacinis skundas grindžiamas šiais argumentais:

1. Pirmosios instancijos teismas nepagrįstai atmetė 2007 m. lapkričio 13 d. teismo posėdyje pateiktą prašymą „Dėl liudytojų apklausos“ ir 2007 m. gruodžio 10 d. teismo posėdyje pateiktą prašymą „Dėl ekspertizės skyrimo“, tuo nevykdydamas pareigos tinkamai išsiaiškinti visas bylos aplinkybes ir visapusiškai objektyviai jas ištirti (Administracinių bylų teisenos įstatymo 81 str.). Patenkinus šiuos prašymus, būtų buvusi galimybė nustatyti nugriautų pastatų vertę, tuo pačiu ir patirtos turtinės žalos dydį, išsiaiškinti, kuriuose pastatuose gyveno pareiškėjai.

2. Teismas netinkamai įvertino patirtos neturtinės žalos dydį – neatsižvelgta į patirtų išgyvenimų trukmę, intensyvumą, tai, kad skriaudą patyrė mažamečiai vaikai. Atkreiptinas dėmesys, kad teismas visiškai nepasisakė dėl prašymo pareiškėjai V. T. B. priteisti 1 000 000 Lt neturtinės žalos, nevertino skunde dėl šiai pareiškėjai prašomos atlyginti neturtinės žalos dydžio pateiktų argumentų, dėl ko šiai pareiškėjai turėtų būti atlyginama didesnė neturtinė žala.

Apeliaciniu skundu atsakovas Vilniaus miesto savivaldybė prašo panaikinti Vilniaus apygardos administracinio teismo sprendimo dalį, kuria priteista pareiškėjams po 5 000 Lt neturtinei žalai atlyginti, ir pareiškėjų skundą atmesti visiškai, kitą teismo sprendimo dalį palikti nepakeistą. Apeliacinis skundas grindžiamas šiais argumentais:

1. Teismas pažeidė principą, kad iš neteisėtumo negali kilti jokia teisė (ex injuria ius non oritur) – statybos buvo neteisėtos ir jų pagrindu pareiškėjai negalėjo įgyti jokių teisių ar teisėtų interesų, taip pat ir į gyvenamąjį būstą ar jo neliečiamumą. Be to, pagal Civilinio kodekso 6.282 straipsnio 1 dalį paties nukentėjusio asmens kaltė dėl žalos jam atsiradimo yra pagrindas atmesti reikalavimą atlyginti žalą.

2. Teismas priteisė moralinės žalos atlyginimą, nors nenustatyta, kokie konkretūs asmenys žalą patyrė.

3. Teismas nepagrįstai konstatavo, kad neteisėtus veiksmus atliko Vilniaus miesto savivaldybės administracija – šiuo atveju ginčui aktuali klausimu nebuvo priimtas joks kurios nors savivaldybės institucijos sprendimas, sukliantis teises pasekmes.

4. Galimai neteisėtų savivaldybės institucijų veiksmų, iš kurių pareiškėjai kildina žalą, konstatavimui yra privaloma laikytis Administracinių bylų teisenos įstatymo 33 straipsnio 1 dalyje nustatyto vieno mėnesio termino.

5. 5 000 Lt neturtinės žalos atlyginimo priteisimas kiekvienam pareiškėjui yra nepagrįstas ir prieštarauja neturtinės žalos atlyginimo principams – jos

atsiradimas neįrodytas, nepagrįsta, kuo konkrečiai neturtinė žala kiekvienam iš pareiškėjų pasireiškė.

6. Teismas nepagrįstai nenagrinėjo, ar atsakovo veiksmai nebuvo sąlygoti būtinojo reikalingumo (Civilinio kodekso 6.253 str. 6 d.).

Atsiliepimu į pareiškėjų apeliacinį skundą atsakovas Vilniaus miesto savivaldybė prašo jį atmesti.

Atsiliepimu į atsakovo Vilniaus miesto savivaldybės apeliacinį skundą pareiškėjai prašo jį atmesti.

Teisėjų kolegija

k o n s t a t u o j a :

IV.

Apeliaciniai skundai tenkintini iš dalies.

Pareiškėjai prašo atlyginti turtinę ir neturtinę žalą, atsiradusią dėl jų teigimu, neteisėtų Vilniaus miesto savivaldybės veiksmų, nugriaunant pastatus, kuriuose gyveno pareiškėjų šeimos.

Reikalaujama atlyginti žalą priskirtina deliktinės atsakomybės rūšiai. Tokiai atsakomybei atsirasti Civilinis kodeksas numato tam būtinų sąlygų visetą: neteisėtą pareigūnų veiką, t.y. netinkamą pareigų atlikimą ar jų visišką neatlikimą; žalą (dėl neteisėtos pareigūnų veikos atsiradusias pasekmes); priežastinį ryšį tarp neteisėtos veikos ir atsiradusios žalos ir pareigūno kaltę (CK 6.246-6.249 straipsniai). CK 6.249 straipsnio 1 dalis žalą apibrėžia kaip asmens turto netekimą arba sužalojimą, turėtas išlaidas (tiesioginiai nuostoliai), taip pat negautas pajamas, kurias asmuo būtų gavęs, jeigu nebūtų neteisėtų veiksmų. Žalą (nuostolius) privalo įrodyti pareiškėjas. Pagal Civilinio kodekso 6.271 straipsnio 1 dalį žalą, atsiradusią dėl savivaldybės valdžios institucijų neteisėtų aktų, privalo atlyginti savivaldybė iš savivaldybės biudžeto nepaisydama savo darbuotojų kaltės. Valstybės ar savivaldybės civilinė atsakomybė atsiranda, jeigu valdžios institucijų darbuotojai neveikė taip, kaip pagal įstatymus šios institucijos ar jų darbuotojai privalėjo veikti (Civilinio kodekso 6.271 str. 4 d.). Taigi viešojo atsakomybė Civilinio kodekso 6.271 straipsnyje numatytais atvejais atsiranda tuomet, kai yra visos trys sąlygos: neteisėti veiksmai ar neveikimas, žala ir priežastinis neteisėtų veiksmų (neveikimo) ir žalos ryšys (Vyriausiojo administracinio teismo 2004 m. balandžio 16 d. nutartis administracinėje byloje Nr. A444-619/2008, 2008 m. balandžio 17 d. nutartis administracinėje byloje Nr. A442-330/2008).

Pirmosios instancijos teismas teisingai nustatė, kad pareiškėjai neįrodė paties turtinės žalos fakto (vieno iš pagrindinių būtinų civilinei atsakomybei atsirasti elementų) – nepateikė turtinę žalą patvirtinančių įrodymų (Administracinių bylų

teisenos įstatymo 53 str. 2 d., 57 str.). Ši aplinkybė laikytina pakankamu pagrindu reikalavimui dėl turtinės žalos atlyginimo atmesti. Pareiškėjų teiginiai, jog jie nuosavybės teisę į pastatus įgijo Civilinio kodekso 4.47 straipsnio 4 punkto normos pagrindu pastatę statinius – nepagrįsti. Pagal Civilinio kodekso 4.47 straipsnio 4 punktą nuosavybės teisė gali būti įgyjama pagaminant naują daiktą. Kolegija pažymi, kad šiuo atveju, norint, kad nurodytos normos pagrindu pareiškėjai būtų įgiję nuosavybės teisę į pastatus šie privalėjo būti pastatyti teisės aktų nustatyta tvarka. Tačiau bylos medžiaga liudija priešingas aplinkybes, t.y. neteisėtas statybas, kurias pripažįsta ir patys pareiškėjai. Darytina išvada, kad į ginčo statinius nuosavybės teisių pareiškėjai neįgijo ir dėl jų nugriovimo turtinės žalos nepatyrė. Konstatavus, kad nugriauti statiniai nelaikytini pareiškėjų turtu, netenka prasmės ir argumentas dėl būtinybės nustatyti jų vertę. Be to, byloje pateikti savavališkos statybos aktai, administracinių teisės pažeidimų protokolai bei nutarimai administracinių teisės pažeidimų bylose yra surašyti tik keliems byloje pareiškėjais dalyvaujantiems asmenims, t. y. V. T. B. (t. 1, b. l. 83-86), R. B. (t. 1, b. l. 88-92), V. S. (t. 1, b. l. 93-97) bei N. S. (t. 1., b. l. 103-107), tuo tarpu kiti tokio pobūdžio dokumentai yra susiję su byloje nedalyvaujančiais asmenimis.

Pirmosios instancijos teismo sprendimo dalį, kuria iš dalies tenkintas pareiškėjų skundas dėl neturtinės žalos atlyginimo, skundžia abi ginčo šalys. Pareiškėjų teigimu, teismas netinkamai įvertino patirtos neturtinės žalos dydį – neatsižvelgta į patirtų išgyvenimų trukmę, intensyvumą, tai, kad skriaudą patyrė mažamečiai vaikai. Atsakovo nuomone, teismas pažeidė principą, kad iš neteisėtumo negali kilti jokia teisė, nenustatyta, kokie konkretūs asmenys žalą patyrė, teismas nepagrįstai nenagrinėjo, ar atsakovo veiksmai nebuvo sąlygoti būtinojo reikalingumo.

Civilinio kodekso 6.253 straipsnio 6 dalyje nustatyta, kad būtinas reikalingumas – tai veiksmai, kuriais asmuo priverstas padaryti žalos dėl to, kad siekia pašalinti jam pačiam, kitiems asmenims ar jų teisėms, visuomenės ar valstybės interesams gresiantį pavojų, išvengdamas gresiančios didesnės žalos atsiradimo žalą patyrusiam ar kitam asmeniui, jeigu žalos padarymas tomis aplinkybėmis buvo vienintelis būdas išvengti didesnės žalos. Pirmosios instancijos teismas šių atsakovo teiginių nenagrinėjo visiškai ir dėl jų nepasisakė.

Neturtinės žalos sąvoką apibrėžia CK 6.250 straipsnio 1 dalis, kurioje nustatyta, kad neturtinė žala yra asmens fizinis skausmas, dvasiniai išgyvenimai, nepatogumai, dvasinis sukrėtimas, emocinė depresija, pažeminimas, reputacijos pablogėjimas, bendravimo galimybių sumažėjimas ir kita, teismo įvertinti pinigais.

Priteisdamas pareiškėjams neturtinę žalą, pirmosios instancijos teismas taip pat neįvertino visų byloje esančių įrodymų, o teismo sprendime padarytos išvados nepagrįstos faktinėmis bylos aplinkybėmis arba joms prieštarauja.

Vienos iš pareiškėjų – N. S. – neturtinė žala grindžiama faktu, kad ji su mažamečiu sūnumi Sergejumi buvo išmesta į žiemos šaltį, tačiau byloje esančioje Lietuvos Respublikos vaiko teisių apsaugos kontrolieriaus įstaigos pažymoje nurodyta, kad „N. S. tėvai Stepas ir R. S. , vaiko teisių apsaugos kontrolieriui paaiškino, jog globoja savo dukters Natalijos nepilnamečius vaikus, nes pati motina vaikus yra palikusi, tėvams dabartinė dukters buvimo vieta nežinoma. Nepilnamečiams vaikams A. S. (g. 1999-06-03) ir S. S. (g. 2000-10-25) 2002 m. balandžio mėnesį yra nustatyta globa, globėju paskirtas vaikų senelis S. S. “ (t. 2, b. 1. 20). Į šią aplinkybę, svarstydamas neturtinės žalos klausimą, teismas visiškai neatsižvelgė. Teisėjų kolegija sutinka su atsakovo apeliacinio skundo argumentu, kad byloje nėra įrodymų ir apie tai, kur kuris pareiškėjas gyveno ar buvo apsistojęs ir netgi ar jie apskritai buvo apsistoję būtent tuose nugriautuose namuose. Pavyzdžiui, anksčiau minėtoje Vaiko teisių apsaugos kontrolieriaus įstaigos pažymoje nurodyta, kad V. S. ir A. A. šeima su keturiais mažamečiais vaikais savo name (kuris buvo nugriautas) negyveno – jie glaudėsi iš Lietuvos išvykusios tetos name. Pareiškėjai, kurie prašo atlyginti neturtinę žalą remdamiesi teiginiu, kad jie gyveno nugriautuose statiniuose, šių teiginių niekaip nepagrindžia. Byloje esantys dokumentai gali patvirtinti tik tai, kad kai kurie asmenys neteisėtus statinius statė, bet neįrodo, kad būtent juose gyveno.

Be to, pažymėtina, kad apeliacinės instancijos teismui pareiškėjai pateikė prašymą apklausti liudytojus. Atmesdamas prašymą, pirmosios instancijos teismas net nesiaiškino, kokias aplinkybes prašomi iškviešti ir apklausti liudytojai galėtų patvirtinti, ar šios aplinkybės susijusios su nagrinėjamu ginču. Todėl teisėjų kolegija konstatuoja, kad toks sprendimas yra nemotyvuotas, o įrodymai nepagrįstai nebuvo tirti pirmosios instancijos teisme. Jų ištyrimas gali būti reikšmingas vertinant įrodymų visumą ir priimant teisingą sprendimą.

Dėl šių priežasčių darytina išvada, kad pirmosios instancijos teismas, sprenddamas dėl neturtinės žalos atlyginimo, neištyrė visų svarbių bylai aplinkybių, todėl sprendimas šioje dalyje negali būti pripažintas teisėtu ir pagrįstu. Ši sprendimo dalis naikintina (Administracinių bylų teisenos įstatymo 81, 86, 87 str.), byla perduotina pirmosios instancijos teismui nagrinėti iš naujo.

Vadovaudamasi Lietuvos Respublikos administracinių bylų teisenos įstatymo 140 straipsnio 1 dalies 4 punktu, teisėjų kolegija,

n u t a r i a:

Pareiškėjų N. S. , S. S. (S. S.), V. S. , A. S. (A. S.), E. S. , A. S. , J. Č. , M. Č. , Z. Č. , A. Č. (A. Č.), L. J. , M. Č. , R. B. , O. B. , R. B. (R. B.), R. B. , T. B. , L. B. , L. B. , V. T. B. ir atsakovo Vilniaus miesto savivaldybės apeliacinius skundus patenkinti iš dalies.

Vilniaus apygardos administracinio teismo 2007 m. gruodžio 18 d. sprendimo dalį, kuria buvo patenkintas pareiškėjų skundas dėl neturtinės žalos priteisimo

panaikinti ir perduoti bylą pirmosios instancijos teismui nagrinėti iš naujo.
Likusią sprendimo dalį palikti nepakeistą.

Nutartis neskundžiama.

Teisėjai Anatolijus Baranovas

 Dainius Raižys

 Vaida Urmonaitė

Annex 3 – Interview, summary of main points

During the field research of the thematic study on housing conditions of Roma in Lithuania, a total of five face-to-face interviews were conducted. Two of the interviewees were women and three were men. Two of the interviewees represent government authorities (one national and one municipal) that have dealt with Roma housing issues and three of the interviewees represent civil society organisations, including one Roma organisation. The following persons were interviewed: (1) the Seimas Ombudsperson, (2) a representative of the administration of the Vilnius city municipality, (3) a lawyer representing Roma plaintiffs in the case of the demolition of houses in the Kirtimai settlement on 2-3.12.2004, (4) a representative of the Lithuanian gypsy community organisation Gypsy Fire, and (5) a representative of a public institution *Romų visuomenės centras* [Roma Community Centre].

The main points of the interviews are provided below, organised by the proposed general framework for the semi-structured interviews.

1. What would you consider as the most important features of Roma/Traveller housing and accommodation situation in your country?

Most of the interviewees could only provide data about the housing and living conditions of Roma people living in Vilnius, particularly in Kirtimai settlement, which is home to approximately 500 Roma residents. According to the interviewees, the most pressing issue is the illegal status of the settlement: Roma houses in the settlement were constructed without building permits on state-owned property. The lawyer stated that Lithuania's current law system does not allow for the legalisation of such buildings and requires that all illegal buildings be demolished (whereas the legalisation of such buildings was possible prior to changes in the Civil Code and Law on Construction in 2006).

Housing in Kirtimai was described as shabby and extremely meagre by representatives of both national and municipal authorities and civil society organisations. Most buildings in Kirtimai are built from wood and lack thermal insulation; therefore, stoves must be used constantly to heat houses (cold weather was mentioned as an obstacle to children's on-time departure for school). There is no central water supply or sewerage in the settlement; water is provided via four pumps, and residents use outdoor toilets close to their houses. Electricity has been cut off for many families due to the non-payment of bills. Waste collection is provided by the city (one waste container is located on the outskirts of the settlement), but not all residents bring their waste this far; instead, they often dispose of it in a nearby forest.

According to the Seimas Ombudsperson, who is conducting an investigation into a complaint filed by Roma residents about delays in solving the problems of the Kirtimai settlement, 'most of the interviewed Roma acknowledged that

they were not paying their utility bills. Some of them said that they did not know how to do that; others stated that they find no sense in doing this because they were not sure about their future in the settlement, they were not sure if they [would continue] living here'.

The president of Gypsy Fire also indicated that the settlement is located in an industrial part of the city and is close to many factories and plants. This area is not considered a residential zone by the Vilnius city municipality administration and, in his opinion, the area should continue be considered as such, because it is not safe for people to live there.

Both representatives of Roma organisations indicated that no settlements similar to Kirtimai existed anywhere else in Lithuania. The situation with the Kirtimai settlement was described as extraordinary, especially with regard to the illegal status of buildings and the isolated location of the settlement (Roma people in other parts of Lithuania live in mixed neighbourhoods).

The representative of the Vilnius city municipality administration stated that although such meagre housing conditions are not exclusive to the Kirtimai settlement and can be found in other areas in the city occupied by non-Roma persons, the conditions are not common in Vilnius and represent below-average living standards.

The representative of Vilnius city municipality administration and the Seimas Ombudsmen's Office indicated that the legalisation of buildings in the Kirtimai settlement was a complex issue. Not only were the buildings constructed illegally, they also do not meet safety and sanitary requirements for habitable dwellings, and the territory on which the buildings are located is not a designated residential area. The lawyer also noted that Roma residents rarely represent their interests to public authorities on the issue of legalising the settlement. Although most actions taken by the Vilnius city municipality administration were regarded as sporadic and unstructured, the municipal government representative stated that the issue of the Kirtimai settlement has not been forgotten, although there exists a general lack of competence and knowledge of how to solve it:

'There are attempts to solve this problem; there is some tension over these issues. The problem is not forgotten. But it is a fact that the administration does not know how to solve these issues'.

No group of Roma residents was identified as especially affected by current housing conditions, although children were mentioned several times as the most vulnerable group. The president of Gypsy Fire said that that morbidity of Roma children is higher than usual due to unsafe drinking water, and he noted some Roma children arrive late at school due to poor access to public transportation.

2. Could you describe briefly your institution's work on Roma/Traveller housing and accommodation issues?

Currently, the Vilnius city municipality administration does not have any specific measures targeting Roma housing and accommodation issues. Roma persons can apply for social housing under general social housing regulations. The only measure that was applied specifically to Roma housing was the demolition of several Roma houses on 2-3.12.2004. According to the representative of the Vilnius city municipality administration, this measure helped raise the issue of Roma housing conditions on the political agenda despite the fact that it had a rather negative effect.

The representative of the Vilnius city municipality administration indicated that no decisions regarding Roma housing, and in particular the Kirtimai settlement, had been made. Referring to recent speeches of the Deputy Director of the Vilnius city municipality administration, the representative noted that the municipal government might be starting to look for ways to use national and EU funds to reconstruct existent buildings and build new social housing in current Roma settlements, but no decisions on the subject had been made so far. The first step in this process would be to conduct a feasibility study of such a project.

The representative also noted that Roma housing issues had not been prioritised due to the complexity of the problem, not simply because of xenophobic attitudes among municipal officials. There is also a lack of political will to implement this project; the current political parties (conservatives and populists) do not want to support such projects because they do not recognise the social benefit created by such initiatives. In addition, frequent changes to the composition of the Vilnius City Council have resulted in frequent changes of administrative department directors (they are civil servants of political (personal) confidence), which has also contributed to the lack of general administrative competence and the uneven attention given to Roma housing issues.

The two civil society organisations – Roma Community Centre and Gypsy Fire – have no specific measures addressing housing and accommodation issues, although they help individuals by contacting the Vilnius city municipality administration and providing legal assistance in filing applications for social housing.

3. Are there any national, regional or local housing and accommodation policies related to Roma/Travellers' housing? What would you say is their actual impact on the situation?

There have been two national programmes and one local programme targeting the Roma community in Lithuania. The Seimas Ombudmen's Office stated that the first national programme, the Programme for the Integration of Roma into

Lithuanian Society 2000-2004, was evaluated by the Seimas Ombudsmen's Office after a complaint was submitted by representatives of the Roma community in 2005. Following the evaluation of the programme, it was concluded that although some measures of the programme had not been implemented the majority of measures had been carried out and had made a positive impact on the Roma community.

The Seimas Ombudsmen's Office stated that the Programme for the Integration of Roma into Lithuanian Society 2000-2004 resulted in a major improvement of living conditions in the the Kirtimai settlement. The improvement of living conditions was achieved thanks to a newly established Roma Community Centre housing two pre-school classes, a computer class and a social workers' office. A building containing showers, washing machines and a small sauna that was built a few years later also brought about a major improvement of living conditions in the settlement. The representative of Roma Community Centre agreed that the establishment of the centre had made a positive impact on the settlement. Actions by the Vilnius city municipality (repairs to street lighting, water hydrants and waste containers) in 2004 resulted in some improvement to living conditions in the settlement.

The Seimas Ombudsmen's Office had not yet evaluated the Programme of Surveillance and Security of the Vilnius Roma Community and Territories near the Encampment and the Reduction of Roma Segregation for 2005-2010 and the Programme for the Integration of Roma into Lithuanian Society 2008-2010 and therefore could not provide an assessment of the efficiency of these programmes. However, the Ombudsperson stated that none of the programmes had included measures to improve Roma housing conditions. The absence of these measures is seen as one of the chief failings of the programmes.

The representative of the Vilnius city municipality administration stated that the presence of police in the settlement (a local police station was established during the implementation of Programme of Surveillance and Security of the Vilnius Roma Community and Territories near the Encampment and the Reduction of Roma Segregation for 2005-2010) was seen as a positive improvement by many residents because it curbed the flow of drug addicts into the settlement and created a safer living environment for residents of Kirtimai. However, due to suspended financing of the police station, it is now closed and patrols of the settlement have been discontinued.

The representative of the Vilnius city municipality administration stated that the implementation of the Programme of Surveillance and Security of the Vilnius Roma Community and Territories near the Encampment and the Reduction of Roma Segregation for 2005-2010 had been de facto suspended. The programme has been implemented inefficiently, and no supervising institution has been created to oversee programme activities. According to the representative:

No one is supervising the programme. Even support with firewood has been suspended; no funds were allocated, although only LTL 10,000 (EUR 2,896) was needed.

No groups of Roma residents were identified as especially affected by Roma integration programmes.

4. Could you identify any examples of “good practice” related to Roma/Travellers housing?

During the implementation of the Programme of Surveillance and Security of the Vilnius Roma Community and Territories near the Encampment and the Reduction of Roma Segregation for 2005-2010, a meeting of Roma residents and neighbours of the settlement was organised because the neighbours had been complaining about thefts, littering, and the bad reputation of the area. Although the representative of Vilnius city municipality administration stated that the meeting was unstructured and did not lead to any further action, the representative of Roma Community Centre noticed that the number of neighbours' complaints had subsided.

During a country-wide clean-up project in spring 2008, an official with the Vilnius city municipality administration initiated a cleaning event in the Kirtimai settlement. The head of Gypsy Fire said that the event was a beautiful initiative and that the Roma community willingly participated in the event.

The Seimas Ombudsmen's Office mentioned several cases in which the mediation of the Ombudsmen's Office helped solve housing problems of several Roma family in Ukmergė. Following the intervention of the Seimas Ombudsperson, the family was assigned temporary social housing.

5. Was your organisation involved in any cases of housing discrimination or other violations of the housing rights of Roma/Travellers?

The representative of the Vilnius city municipality administration could not recall any cases of proven discrimination against members of the Roma community. He acknowledged that the Roma often complain that social workers do not provide sufficient support and make mistakes when filling out applications, among other problems. However, none of these complaints have been substantiated as discriminatory. The representative said:

I do not know of any case of discrimination that has been proven. But I agree that tensions can be felt; there is a general lack of trust on both sides.

The interviewed Seimas Ombudsman investigates complaints regarding the abuse of office, whether by action or inactivity, by officials in the Vilnius region. Complaints about discrimination are investigated by the Office of Equal Opportunities Ombudsperson, which is a separate institution. The interviewed

official noted that most complaints submitted by Roma persons deal with social support or housing issues. Although the number of complaints from Roma persons is fairly high, not all of them could be substantiated. According to the Seimas Ombudsperson:

It is difficult to identify discrimination or abuse of power when no arguments are submitted. Many complaints contain just general statements that the complainant's rights have been violated.

The Seimas Ombudsman stated that, so far, only one complaint could be evaluated as a case of direct discrimination: the demolition of Roma houses on 2-3.12.2004. This action, undertaken by the Vilnius city municipality administration, was stopped after the intervention of the Seimas Ombudsmen's Office. Later, during the investigation of the complaint, it was ascertained that officials of the Vilnius city municipality administration had abused their offices and had violated various laws in ordering the demolition of houses in the settlement. Evidence gathered during the investigation of the case was passed along to the prosecutor's office.

During the interview, the president of Gypsy Fire mentioned one case in which the allocation of social housing to a Roma applicant was postponed, but he did not provide any details of the case. He also noted that it was difficult for Roma people to prove such cases in courts or other institutions. Therefore, few complaints are submitted and most of the cases are not investigated. The interviewee also noted that many Roma are unable to defend their rights and submit complaints because they are illiterate.

No concrete cases of discrimination were mentioned by the representative of the Roma Community Centre.

The interviewed lawyer could only provide information regarding the court case of the demolition of Roma houses in 2004. The case was initiated by lawyers who had been working on the issue since 2005. At present, the case is still active because the Supreme Administrative Court sent it back to a lower court for additional proceedings. The lawyer noted that the case has been under examination for five years already and that the plaintiffs' legal representatives suspected the Vilnius city municipality administration of purposely delaying the court hearings. According to the lawyer:

All circumstances that could prove the illegal actions of the Vilnius city municipality administration are purposely concealed from us. It emerged that the municipality administration has had a list of all the houses in the settlement. Each house was assigned a number in social support documents. The municipality administration knew about the number of houses in the settlement and could keep track of new constructions. Yet such data has not provided in court; we only acquired this information by accident. The Vilnius city municipality administration, which is the defendant in this case, is not willing to

share information about the settlement and wants to have our allegation dismissed.

No groups of Roma residents were identified as particularly affected by discrimination.

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