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INTRODUCTION

Year 2005 was an exceptional year for the Office of the Equal Opportunities Ombudsperson. Having come into effect as of January 1, 2005, the Law on Equal Treatment has considerably expanded the limits of competence of the Office and allowed people discriminated against in everyday life to apply not only in cases of discrimination on the basis of sex, but also in cases of discrimination based on age, sexual orientation, disability, racial or ethnic origin, religion or beliefs. Prior to that, Lithuania had no appropriate legal base and mechanism providing how such people could protect their violated rights. The need for the Law on Equal Treatment from its very first day of going into effect was confirmed by an increased number of complaints regarding new forms of discrimination defined by the law.

Publicity of the work of the Office of the Equal Opportunities Ombudsperson remains to be an essential priority in its activity. Since a significant number of people who submitted complaints consent to make complaint details public, compared to last year, more publications about complaints appeared in the media over the reporting period. An increasing number of complainants tended to cooperate with the media in examining potential violations of equal treatment legislation, and this (as well as the increasing number of complaints) shows that the society is becoming more aware and more civic.

Publicity of activity of the Office is governed by Article 28 of the Law on Equal Opportunities of Women and Men. It lays down that information about an investigation of a complaint regarding an equal rights violation is made available to the media only upon the complainant's consent. This is a precondition in order for the injured person to be able to apply to the Ombudsperson, without being afraid that the circumstances of the application investigation will be made public without his/her consent.

Regarding media tendencies, it can be noted that the four qualitatively new tendencies in working with the media, as already noted in 2004, continued and strengthened (the topic of equal opportunities already reported in the news and not in the miscellaneous section; introduction of regular headings; involvement of media representatives in informing the Office about various violations of equal opportunities, and a large gap between the national and regional media).

Following the expansion of the competence of Equal Opportunities Ombudsperson by the Seimas of the Republic of Lithuania, opportunities for institutions and organisations, in cooperation with which the Office implements equal opportunities for people to participate in the labour market, the education system as well as for equal treatment in access to goods and services, also expanded. In 2005, the Office successfully cooperated with numerous Lithuanian, foreign and international institutions, nongovernmental organisations, and education and science institutions.

Participating in the work of the European Commission's Advisory Committee on Equal Opportunities for Women and Men, where it represents the Republics of Lithuania, the Office submits proposals and conclusions regarding transposition of provisions of the European Union's legislation into the national law.

The Office of the Equal Opportunities Ombudsperson provided information and its comments regarding the 3rd Report on Lithuania, already prepared by experts of the European Commission against Racism and Intolerance (ECRI). The Office regularly informs the Commission about complaints regarding discrimination on national and religious grounds under its investigation and submits information on other issues of interest to the Commission.

The Office of the Equal Opportunities Ombudsperson submits comments and proposals to authorities and governmental bodies regarding draft legislation in terms of implementation of equal opportunities. Draft legislation is prepared and coordinated with the Ministry of Social Security and Labour, as well as other ministries.

Over the reporting period, the Office of the Equal Opportunities Ombudsperson continued its cooperation with nongovernmental organisations. Numerous conferences held by nongovernmental organisations were attended and presentations were made about the activity of the Office and the equal opportunities policy in Lithuania and abroad. Representatives of nongovernmental organisations visit the Office, get advice on various issues of implementation of equal opportunities, request information about enforcement of the Law on Equal Opportunities of Women and Men, as well as the Law on Equal Treatment. The Office also provides representatives of these organisations with recommendations regarding feasibility of prepared projects, advises regarding resolution of conflict situations and human rights remedies. It should be noted that cooperation with nongovernmental organisations is mutually beneficial and, most importantly, produces excellent results in the area of raising public awareness and information dissemination on gender mainstreaming.

1. IMPLEMENTATION OF THE LAW ON EQUAL OPPORTUNITIES OF WOMEN AND MEN AND THE LAW ON EQUAL TREATMENT OF THE REPUBLIC OF LITHUANIA AND COMPLAINT INVESTIGATION

The new Law on Equal Treatment went into effect as of January 1st, 2005, prohibiting direct and indirect discrimination on the basis of age, sexual orientation, disability, racial or ethnic origin, religion or beliefs. Thus, since January 1st, 2005, the Office of the Equal Opportunities Ombudsperson has been

assigned to carry out supervision of already two laws, i.e. the Law on Equal Opportunities of Women and Men and the Law on Equal Treatment.

The Law on Equal Treatment, as well as the Law on Equal Opportunities of Women and Men, lays down the obligation to provide equal treatment for the following entities:

- state and municipal institutions,
- education establishments, science and study institutions (in terms of admission, knowledge assessment, teaching programme selections, etc.)
- employers of all forms of ownership (in employing, setting working conditions, qualification upgrading conditions, work pay, etc.).
- providers of goods and services, producers and distributors of advertising (the law lays down the obligation for the seller and the producer of goods or the service provider to provide equal treatment irrespective of the person's age, sexual orientation, disability, racial or ethnic origin, religion or beliefs).

The Law on Equal Treatment, as well as the Law on Equal Opportunities of Women and Men, provides for certain requirements for job or study advertisements. The Law on Equal Treatment provides for prohibition to specify requirements giving priority to persons of certain age, certain sexual orientation, to healthy persons, to persons of certain racial or ethnic origin, to persons professing a certain religion or holding certain beliefs.

Both these anti-discriminatory laws is the policy of the state that women and men irrespective of their age, sexual orientation, disability, racial or ethnic origin, religion or beliefs must respect each others' role in public life. Each person, each member of the society must enjoy equal opportunities to pursue education, professional improvement, career and equal opportunities for self-expression in the area of culture and arts. Each person, irrespective of his/her sex, age, sexual orientation, disability, racial or ethnic origin, religion or beliefs has a right to apply for a job s/he likes and get in return for it remuneration depending on the quality of the work done, professional and business ability, and not on the features of such person.

Provisions of the mentioned laws are not applicable to the areas of family and private life.

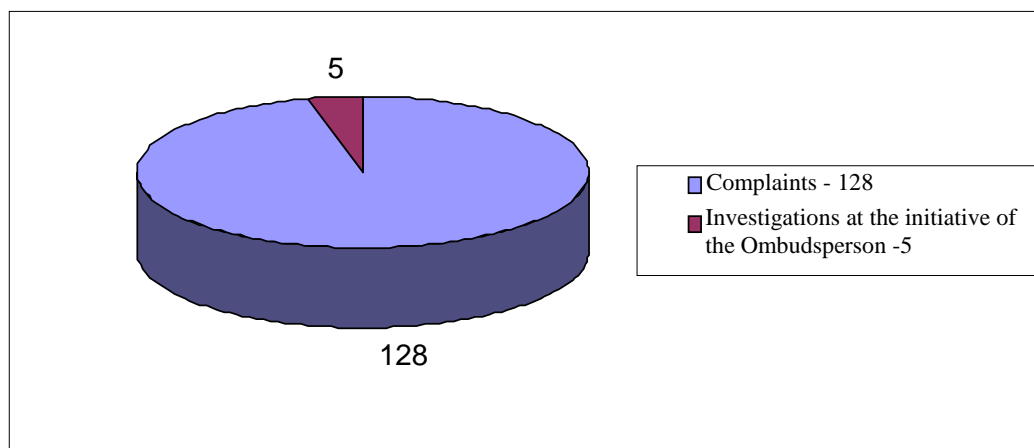
The Office of the Equal Opportunities Ombudsperson (formerly called the Office of the Women and Men's Equal Opportunities Ombudsperson) has been in operation for seven years. Over this period, a large number of Lithuanian residents approached the Office with complaints regarding various human rights violations, even more people contacted the Office by telephone or e-mail, asking to provide advise regarding restriction or limitation of their rights. Over these years, the public attitudes and stereotypes regarding the role of women and men in public life have been slowly changing, just like intolerance towards various socially excluded groups, even if very insignificantly. Obviously, adoption of anti-discriminatory laws and establishment of an institution in charge of supervision of enforcement of these

laws have *per se* not eliminated manifestations of discrimination in our society, however, certain positive changes are already happening. The process of increasing legal awareness and civil maturity is long-term and takes years. However, adoption and enforcement of anti-discriminatory laws and investigation and publicising in the media of complaints received by the Office do certain preventive work in this area and make people view the present phenomena from the point of view of equal opportunities and ensuring rights.

The Law on of Equal Opportunities of Women and Men and the Law on Equal Treatment give each person a right to approach the Office of the Equal Opportunities Ombudsperson and protect violated rights when he or she suffered discrimination based on sex, age, sexual orientation, disability, racial or ethnic origin, religion or beliefs.

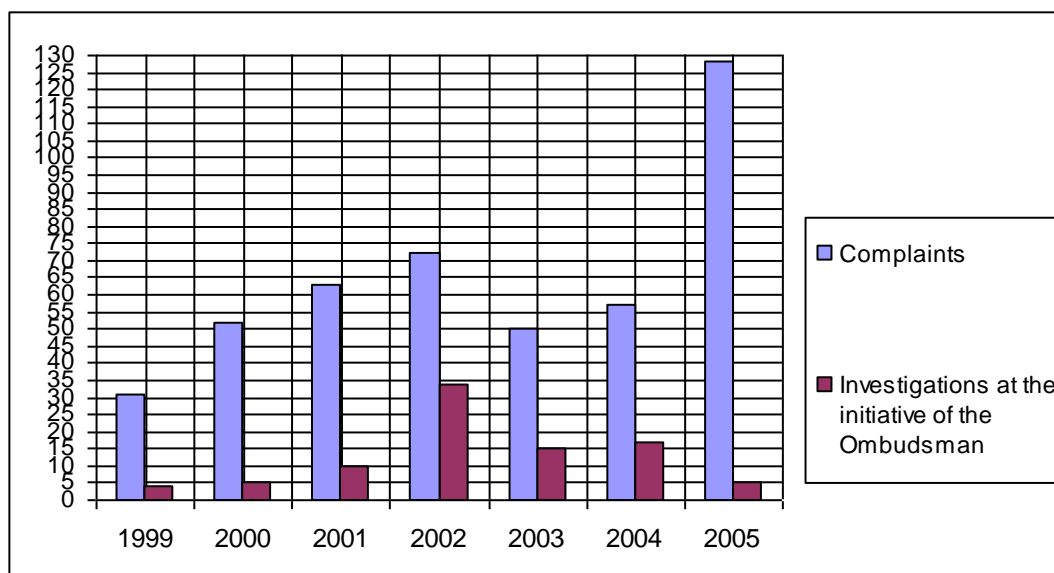
Over the reporting period, the Office of the Equal Opportunities Ombudsperson received 128 complaints. 5 investigations were opened at the initiative of the Ombudsperson regarding possible equal rights violations (**Fig. 1**).

Fig. 1 - Complaints received and investigations carried out at the initiative of the Ombudsperson:



While the number of complaints was constantly increasing over the first four of the years of the activity of the Office of the Equal Opportunities Ombudsperson, the number of complaints received in 2003 and 2004 was lower. However, the number of complaints received in 2005 significantly increased and this increase can be directly associated with the new Law on Equal Treatment going into effect (**Fig. 2**).

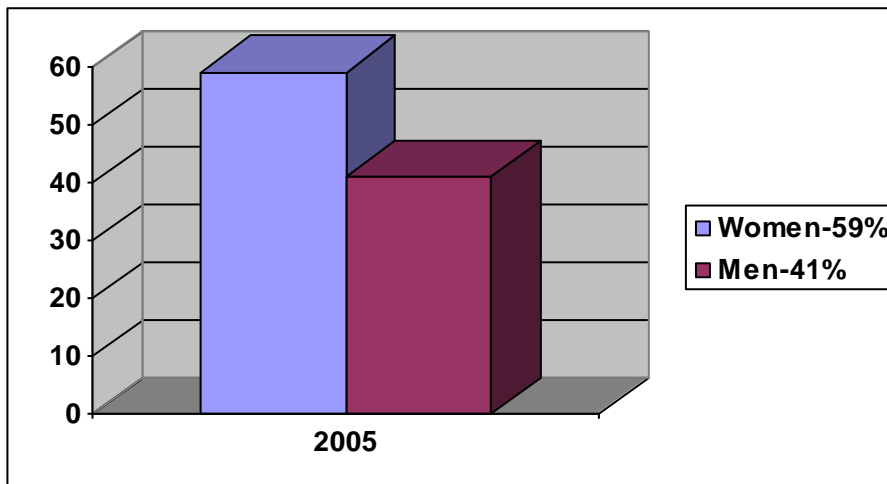
Fig. 2 - Comparison of the number of complaints and investigations carried out at the initiative of the Ombudsperson over the reporting periods:



Regarding investigations started at the initiative of the Ombudsperson, it should be noted that investigations were also opened during this reporting period, upon detection of signs of possible equal opportunities violation in the area of supply of goods and services. National and regional newspapers still publish advertisements indicating different club and bar entry fees for women and men or, for example, granting women a right to visit such establishments free of charge, while charging men a fixed fee. Equal opportunities in the area of protection of consumer rights must be ensured after Article 5¹ of the Law on Equal Opportunities of Women and Men went into effect on July 3rd, 2002, and after the Law on Equal Treatment went into effect on January 1st, 2005.

Regarding sex of persons who submitted complaints, it can be noted that the tendencies remain the same: more than half of persons who submitted complaints are female, however, men are not inclined to be reticent about facts of discrimination either (**Fig. 3**).

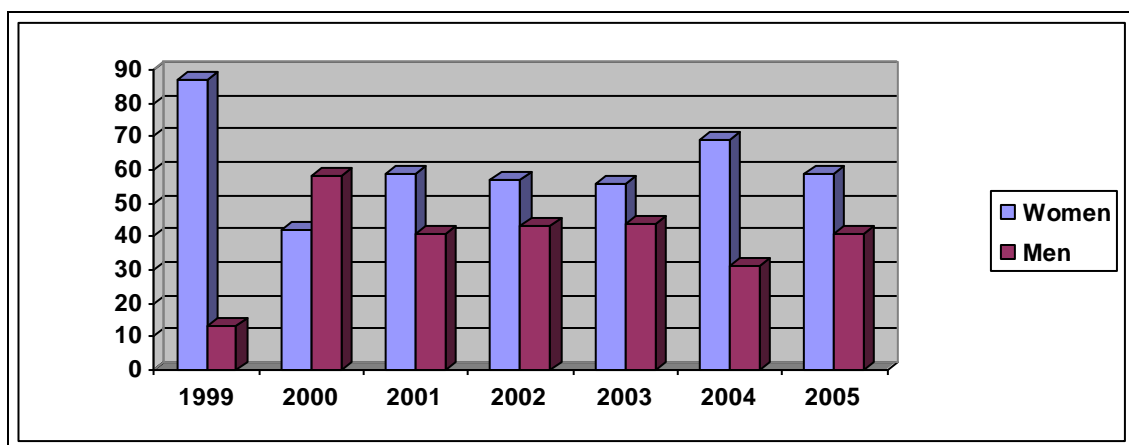
Fig. 3 - Distribution of persons submitting complaints by sex:



The practice of the Office shows that, unlike women, men complain about discrimination on the basis of sexual orientation, ethnic origin, religion and beliefs. Women feel to be more discriminated on the basis of their sex, age and disability. Year 2005 saw a particular increase of calls and e-mail queries by pregnant women, regarding violations of their rights at work and in the civil service. According to the complainant women, employers are very reluctant to apply privileges provided for in the Labour Code for pregnant women or worsen working conditions, do not pay them various supplements, do not grant them incentives to work after learning that the women is pregnant. In 2005, the Office received about 50 verbal complaints from pregnant women and mothers raising children under three years of age, who had queries regarding discriminating actions of their employer.

Summing up the reporting periods of the Office of the Equal Opportunities Ombudsperson, it should be noted that a large majority of applying individuals are women, with the exception of year 2000, when more men applied to the Office regarding violation of their rights (**Fig. 4**).

Fig. 4 - Distribution of persons who submitted complaints to the Office of the Equal Opportunities Ombudsperson by sex over the reporting periods:

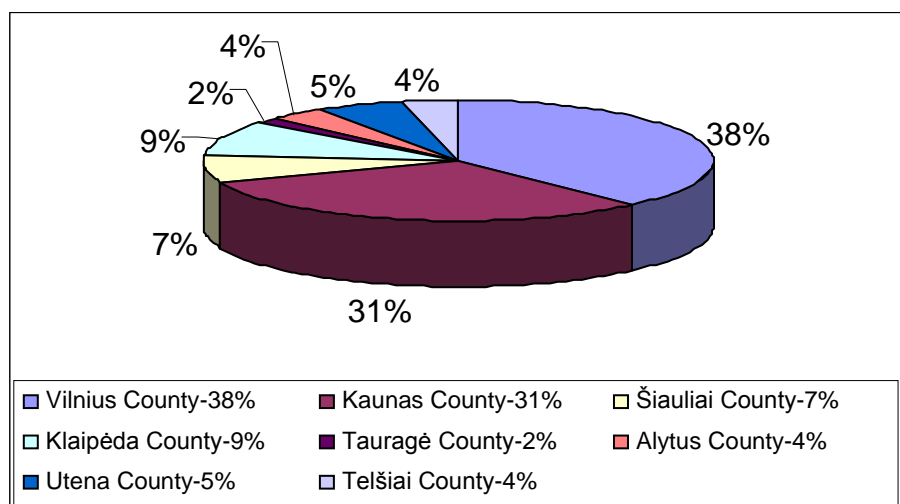


Regarding the regions, residents of which submitted complaints (**Fig. 5**), it should be noted that residents of Vilnius City have been most active this year as well. However, activity of residents of Kaunas County also went up considerably over the reporting period. It can be noted that it is mostly residents of major Lithuanian cities rather than regions and small towns that apply to Office of the Equal Opportunities Ombudsperson. Such markedly high activity of residents of major cities is conditioned by more active public life in the said cities, diversity of events providing opportunities for expanding their horizons and acquiring more knowledge and being in direct communication and discussion of topic of interest.

Information about activity of the Office of the Equal Opportunities Ombudsperson and legislative provisions are posted in the internet website of the Office, however, this information is likely to be more accessible to residents of major cities, because it is them in particular that use computers and the internet more. The Office staff very often provide information and advice by e-mail. Such method of communication is convenient to those applying as they receive information of interest in a fast and convenient way, however, communication by e-mail is more accessible to younger residents of major cities.

No complaints over the reporting period were received from Panevėžys and Ukmergė counties.

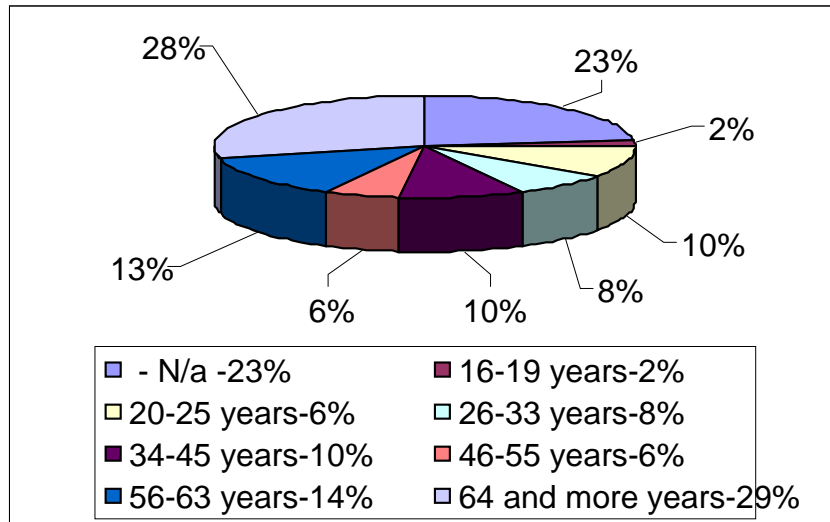
Fig. 5 - Counties, from which complaints were received and investigations were opened at the initiative of the Ombudsperson:



Regarding the age of complainants (those who provide information about their age), it can be noted that, over reporting period, differently from last year, the most active women and men were of

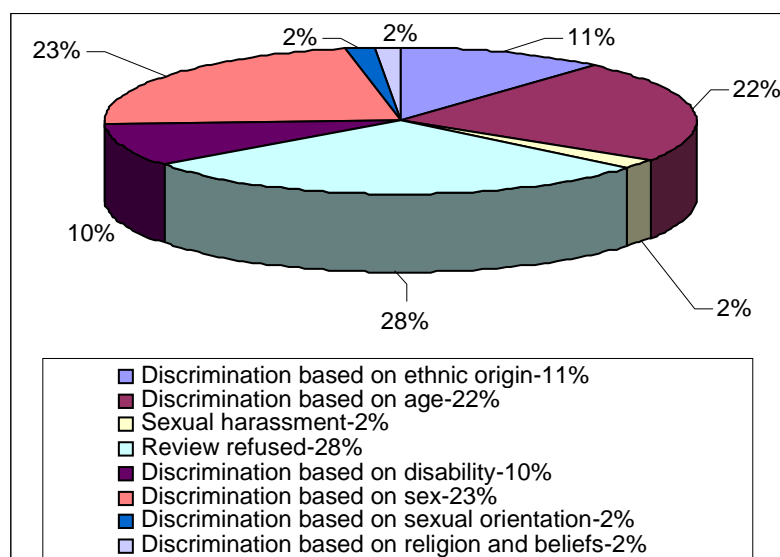
middle and pensionable age, with professional skills and knowledge, but feeling discriminated because of their age or sex or other grounds and not willing to tolerate discrimination. (Fig. 6)

Fig. 6 - Distribution of persons who submitted complaints to the Office of the Equal Opportunities Ombudsperson by age:



After the Law on Equal Treatment went into effect on January 1st, 2005, activity area of the Office of the Equal Opportunities Ombudsperson expanded considerably: the Office started, within its competence, to investigate complaints not only regarding discrimination of women or men, but also complaints regarding other types of discrimination, i.e. based on age, sexual orientation, disability, racial or ethnic origin, religion or beliefs. To summarise subjects of the received complaints and investigations carried out at the initiative of the Ombudsperson, two types of discrimination can be identified, in relation to which most of complaints were received and in relation to which most investigations were carried out at the initiative of the Ombudsperson - discrimination based on sex and age. (Fig. 7).

Fig. 7 - Subjects of complaints and investigations carried out at the initiative of the Ombudsperson:



1.1. DECISION MAKING AND ENFORCEMENT

Article 24 of the Law on Equal Opportunities of Women and Men gives a right to the Equal Opportunities Ombudsperson to take one of the following decisions:

- to refer the investigation material to pre-trial investigation bodies if indications of a criminal act have been established;
- to address an appropriate person or institution with a recommendation to discontinue the actions violating equal opportunities or to repeal a legal act relating to that;
- to hear cases of administrative offences and impose administrative sanctions;
- to dismiss the complaint if the violations mentioned in it have not been corroborated;
- to discontinue the investigation if the complainant withdraws the complaint or when objective information concerning the violation, which has been committed, is lacking whether when the complainant and the offender reach settlement whether when acts violating equal rights are discontinued; or when a legislation violating equal rights is repealed;
- to admonish regarding a violation which has been committed;
- to temporarily suspend the investigation, if the person, whose complaint or actions, in reference to which a complaint has been made, are under investigation, is ill or away.

After completion of the investigation of a complaint regarding violation of the Law on Equal Treatment, a decision is also taken in accordance with Article 24 of the Law on Equal Opportunities of Women and Men.

It should be noted that a considerable part of decisions made by the Equal Opportunities Ombudsperson in discrimination cases in 2005 were comprised of proposals to repeal or amend legislative provisions (of laws, Governmental resolutions, ministerial orders, etc.) which were noticed to contain discrimination on grounds indicated in the Law on Equal Opportunities of Women and Men or the Law on Equal Treatment (or implementation of which results in placement of a certain group of people at a disadvantage) as well as to supplement legislation by appropriate provisions or adopt new legislation intended to eliminate discrimination in a particular area. Further, a considerable part of decisions made by the Ombudsperson was comprised of warnings regarding a committed violation of the Law on Equal Opportunities of Women and Men or of the Law on Equal Treatment.

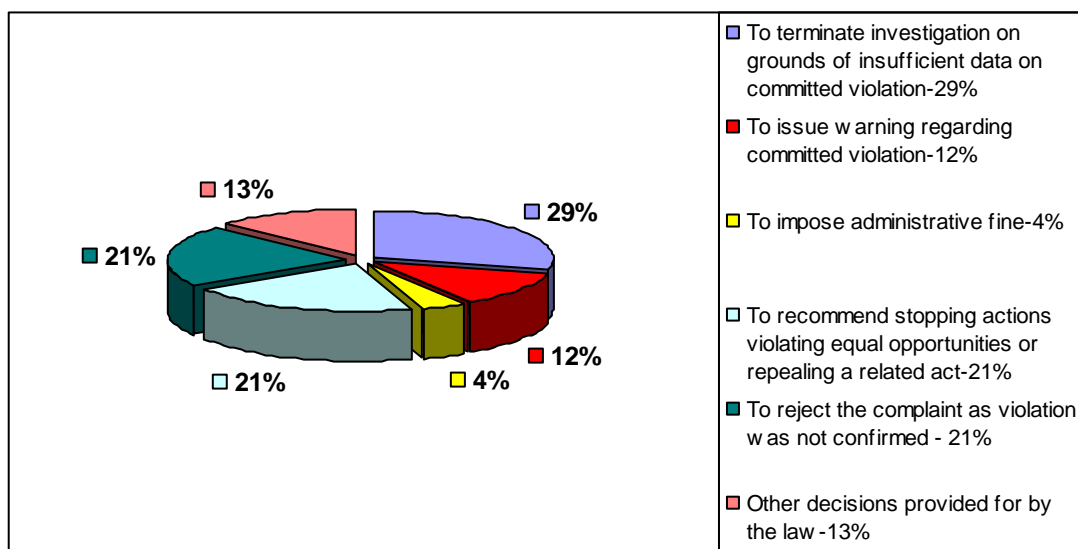
In 2005, administrative fines were imposed on offenders in 4 cases. Administrative fines were imposed for violations of equal opportunities for women and men in the area of goods and services and in employment relations. According to the Office, imposition of an administrative fine is not the most effective measure to achieve the effect of preventing discrimination. After imposition of an administrative fine, a conflict is often not resolved fully. In its investigation of complaints, the Office was giving preference to amicable conflict settlement, and administrative fines were imposed only for wilful malicious violations of law.

In the investigation of complaints, there were often cases when, because of the lack of data on the committed violation (lack of witnesses or their reluctance to testify, absence of documents or other evidence), investigation had to be terminated. It should be noted that a provision regarding termination of investigation because of lack of objective data was incorporated into the Law on Equal Opportunities of Women and Men at the proposal of the Office so that a complaint would not be rejected in case of lacking evidence, which allows to avoid only stating artificially on the grounds of lack of data that a person was not discriminated against.

It must also be noted that people were often addressing the Office regarding problems which, according to the law, are beyond the competence of the Office (e.g. regarding reinstatement of land, problems of private life). In such cases complainants were informed which institution they should to apply to regarding matters set out in their complaint.

In order to achieve higher public awareness and understanding of the issue of discrimination considerable attention in the investigation of complaints was given to publicity; huge interest of the mass media in issues of discrimination has been observed. It should be noted that, in compliance with Article 28 of the Law on Equal Opportunities of Women and Men, the Office provided information about the complaint investigation and the decision taken to the press and other mass media only upon consent by the complainant.

Fig. 8 - Decisions by the Equal Opportunities Ombudsperson



1.2. DISCRIMINATION ON THE BASIS OF AGE. INVESTIGATION OF COMPLAINTS

The Law on Equal Treatment that went into effect in 2005 entrenched prohibition to discriminate on the basis of age. The prohibition to discriminate on the basis of age was also directly provided for in the Labour Code, its scope, however, is rather narrow, because provisions of the Code are applicable only in the area of employment relations. Article 2 of the Labour Code enshrines the principle of equality of subjects of labour law irrespective of their <...> age <...>, and Article 129 lays down that a person's age cannot be a legitimate reason for terminating employment relations with such person, with the exception of cases when the employee has already acquired entitlement to a full old age pension or is in receipt of it.

Attention should be drawn to the fact that Article 2 Subparagraph 3 of the Law on Equal Treatment defines discrimination and Point 3 in the same subparagraph provides for an exception when certain behaviour or actions are not considered to be discrimination: these laws provide for age-based limitations.

Despite this exception provided for in the law, the Office received some complaints regarding possibly discriminatory legislative provisions and carried out their investigations. All age-based limitations entrenched in the laws must be founded and objective and, therefore, in 2005, with the assistance of competent institutions and specialists, the Office carried out an evaluation whether these

age-based limitations were really legitimate and founded and whether they did not violate rights and interests of persons of other age groups.

It must be noted that both women and men complained equally as much about discrimination on the basis of age. Regarding this type of discrimination, it would be worthwhile noting that most of the complaints were received regarding violations in the area of protection of consumers rights, i.e. people felt discriminated against because of their age when they wanted to purchase goods and services.

Yet another important area are the legislative provisions which, according to the complainants, limit the rights of people of older age and give certain priorities to younger people.

Over 2005, the Office of the Equal Opportunities Ombudsperson received 30 complaints regarding discrimination on the basis of age.

* * *

The Office of the Equal Opportunities Ombudsperson was approached by professor J.D. who expressed doubts whether the provision entrenched in Article 31 Point 6 of the Law on Higher Education of the Republic of Lithuania providing that only persons under 65 years of age can be elected (appointed) heads of institutions of higher education as well as of their divisions or their deputies, is in compliance with the requirements of the Law on Equal Treatment.

Professor J.D. claims that Article 31 Point 5 of the Law on Higher Education of the Republic of Lithuania states that teachers and researchers over 65 years of age may work in the institution of higher education if its senate (academic council) gives agreement for concluding a term employment agreement with them for a period of up to 3 years. Such an agreement may, at the decision the senate (academic council), be renewed for another term. According to J.D., this provision could also be applicable when appointing persons as heads or their deputies of institutions of higher education as well as of their divisions.

Minister of education and science of the Republic of Lithuania Remigijus Motuzas explained that the Committee of Education, Science and Culture of the Seimas of the Republic of Lithuania discussed at its meeting of May 10th, 2004, possibilities for amending Article 31 of the Law on Higher Education of the Republic of Lithuania and establishing that persons over 65 years of age may work not only as teachers and researchers, but also in managerial positions if the university senate agrees to concluding a term employment agreement with them for a period of up to 3 years.

The mentioned meeting has resolved that it was not appropriate to expand the exception to provide for an opportunity for persons over 65 years of age to take managerial positions as well, because they are related even heavier mental and emotional strain. Currently, the exception allows them to assume only positions of researchers and teachers; it is justified by lower and more usual work load such

as teaching or research. Taking into account the fact that managerial positions are assumed in addition to the main position as researchers or teachers, such double (and wide-range) work load would be clearly too heavy to persons over 65 years of age. According to the Ministry of Education and Science, the proposed amendment of Article 31 of the Law on Higher Education would hinder active participation of young scholars in the activity of institutions of higher education.

Rector of Vilnius University, Academician Benediktas Juodka explained that, in addition to that, Vilnius University in its activity follows the Law amending the Law of the Republic of Lithuania on approval of the Statute of Vilnius University. Articles 10 and 12 of the Statute of Vilnius University also entrenches a provision similar to that of the Law on Higher Education of the Republic of Lithuania that on the day of appointment the candidate must be over 65 years of age.

“Senates of institutions of higher education could deal with this issue on a case-by-case basis, therefore, provisions laid down in Article 31 Point 5 and 6 should be the same,” says Algimantas Vyšniauskas, the acting head of the Lithuanian Military Academy of General Jonas Žemaitis.

Rector of Vilnius Gediminas University of Technology Romualdas Ginevičius explained that it would be logical to think that researchers or teachers of an institution of higher education, upon reaching 65 years of age and with whom the senate has taken a decision to conclude term employment agreements for a term up to 3 years, could also be appointed (elected) for the same term heads (rector, deputy rector) of institutions of higher education, heads of their study and research divisions or their deputies, irrespective of their age.

Meeting minutes of the Commission on Statute Supervision and Professional Ethics of the Lithuanian University of Agriculture state that it is not expedient to repeal Article 31 Point 6 of the Republic of Lithuania of the Law on Higher Education, leaving in effect provisions of Point 5 of the same article, because application of this point to persons elected heads of an institution of higher education, division heads and their deputies is not allowed by Article 109 of the Labour Code of the Republic of Lithuania. The Commission suggests that proposal by professor J.D. first be reviewed by lawyers.

European Union’s Council Directive 2000/78/EC of November 27th, 2000, establishing the general bases for equal treatment in the occupational and professional area states that different treatment on the basis of age must be justified by occupational policy, purposes of the labour market or vocational training (Recital 25 of the Preamble). Unfortunately, the Law on Higher Education or other legislation contain no substantiation of why limitations on the basis of age are applied for assuming job positions.

Head of Department of Labour Law and Social Protection of Law School of Mykolas Romeris University Prof. Dr. Genovaitė Dambrauskienė explained that application of the principle of equality is

entrenched in all international documents on human rights. In objective terms, equality means equal treatment of legal subjects as entrenched by the law. In subjective terms, equality means laid down equal opportunities to choose a certain behavioural option or to demand equally fulfilment of certain obligation from other legal subjects in an equivalent situation. Prof. Dr. Genovaitė Dambrauskienė points out that legal employment capacity in legal employment relations depends on two conditions: a person's age and his/her psychophysical state. Capacity to have employment rights and obligations (legal employment capacity) is recognised equally for all citizens of the Republic of Lithuania. It is obtained in full scope from 16 years of age. This way Articles 13 and 15 of the Labour Code of the Republic of Lithuania lay down the minimum age limit. The exception when an employment agreement may be concluded with a person under 16 years of age is laid down in a separate law. The maximum age limit in employment relations is not defined. This is explained by the fact that Article 48 of the Constitution of the Republic of Lithuania and Article 2 Point 4 of the Labour Code of the Republic of Lithuania lay down the principle of equal treatment which prohibits discrimination of people in employment relations on the basis of age and other circumstances that are not related to job qualities of employees.

Head of Department of Labour Law and Social Protection Genovaitė Dambrauskienė explained that employees of institutions of higher education are subject to employment legislation, and the Law on Higher Education of the Republic of Lithuania governs only some aspects of working conditions (competition, certification, work remuneration, etc.) and it should not contain provisions establishing lower guarantees of employee rights than provided for by the Constitution of the Republic of Lithuania and the Labour Code of the Republic of Lithuania.

A conclusion can be made that laws should not lay down the upper age limit and should give a right to the employer itself to decide on dismissal from work of employees who have reached 65 years of age on the grounds and according to the procedure established by the law," says Prof. Dr. Genovaitė Dambrauskienė.

Rector of Šiauliai University Vincas Laurutis pointed out that provisions of Article 31 Points 5 and 6 of the Law on Higher Education of the Republic of Lithuania could be the subject of a broader discussion on the issue at the Rectors' Conference. Provision of Article 31 Point 6 could be amended to be analogous to that of Point 5, namely, agreement of the senate (academic council) to conclusion of a term employment agreement.

Rector of Lithuanian Veterinary Academy Prof. Henrikas Žilinskas explained that this provision of the law allows universities to conclude a term agreement taking into account the level of teachers' activity, research and teaching experience, thus using the experience acquired by scholars-educators. This system is working rather effectively in the LVA, allowing to attract capable scholars over 65 years

of age to work productively (because they are no longer subject to research production qualification requirements).

An excerpt of Meeting Minutes No 4 of the Senate of the Lithuanian Physical Culture Academy states that Prof. Habil. Dr. Stanislovas Stonkus expressed an opinion that if a Lithuanian citizen over 65 years of age could be President of the Republic of Lithuania, why then could s/he not head an institution of higher education or its department.

Rector of the Lithuanian Arts Academy Adomas Butrimas explained that the provision of Article 31 Point 5 of the Law on Higher Education of the Republic of Lithuania that teachers over 65 years of age are not to be appointed division heads is fair. This provision is even more stringent in many foreign states: after reaching 65 years of age, individuals may no longer work either as senior lecturers or full professors. Amending this legislative provision is not expedient, because the average staff age at Lithuanian institutions of higher education is unacceptably high as it is.

The Government of the Republic of Lithuania has, by its Resolution No 737 of June 14th, 2004, approved the National Strategy for Overcoming Consequences of Population Ageing. This Strategy states that population ageing is a complex phenomenon that causes various social and economic consequences. Ways are sought in the world on how to avoid problems arising due to population ageing and how to make use of new opportunities opened up by an extended working age of the population.

In the implementation of these goals in the area of occupation, the Government of the Republic of Lithuania planned to achieve that men and women could use their abilities in the labour market longer and would retire later; to create favourable working conditions for people of older age, ensuring their work quality. It is necessary to increase the role of social partners by encouraging employers to keep employees of older age in companies longer; to ensure that people of older age are not discriminated in the workplace (size of remuneration, recruitment and dismissal from work and the like), etc.

Taking into account the mentioned circumstances, a decision was made to propose to the Committee of Education, Science and Culture of the Seimas of the Republic of Lithuania to discuss the need for amending Article 31 Paragraph 6 of the Law on Higher Education of the Republic of Lithuania, addressing this problem so that individuals could be elected (appointed) heads of institutions of higher education as well as of their divisions or their deputies without taking into account their age, but only their professional and business qualities, professional experience acquired in this area and other aspects determining their ability and capability to take this post.

* * *

The Office of the Equal Opportunities Ombudsperson received a complaint from N.L., in which the complainant indicated that she had, in response to a newspaper advertisement in the *Kauno Diena* daily, applied by telephone to a real estate development company regarding a job of a secretary, however, the complainant was not granted an opportunity to try to get the mentioned position because of her age (47 years). According to the complainant, the man who had answered the telephone first of all asked how old she was and after learning that she was 47 said that the complainant was not going to be good for the mentioned job.

Based on this complaint, a query was sent to Teltonus UAB, to which its director, V.P., replied in writing that there were various requirements that had to be met to qualify for the position of a secretary, including nice appearance, because a secretary, according to the director, was “the face of the firm”. When called to Office of the Equal Opportunities Ombudsperson to give clarifications, the director indicated that he did not agree with the complaint of N.L., because, according to him, although she did receive a negative reply by telephone, N.L. could still submit her CV and apply for the position of a secretary. V.P. admitted that he was inclined to hire younger employees for certain jobs in the company under his management, who, according to him, perform their assignments better.

It should be noted that when N.L. called the telephone number indicated in the job advertisement, the director of Teltonus UAB, after learning that N.L. was 47 years, did not try to find out whether she met the requirements for the position of a secretary (education, foreign language skills, etc.), and indicated right away that N.L. was not going to be good for this job.

V.P., the director of UAB Teltonus, has, by the mentioned actions, violated Article 7 Paragraph 1 of the Law on Equal Treatment, since he treated N.L. less favourably in terms of employment because of her age.

Taking into account the set out circumstances and in accordance with Article 13 Paragraph 2 of the Law on Equal Treatment and Article 24 Paragraph 1 Point 6 of the Law on Equal Opportunities of Women and Men, it was decided to warn director of Teltonus UAB V.P. regarding the violation of Article 7 Paragraph 1 of the Law on Equal Treatment.

1.3. DISCRIMINATION ON THE BASIS OF SEX. INVESTIGATIONS OF COMPLAINTS

Summarising the entirety of subjects of complaint investigations, it is necessary to note that complaints regarding violations of equal rights of women and men, including sexual harassment, are leading among other complaints regarding other types of discrimination. The Office of the Equal

Opportunities Ombudsperson received 33 complaints regarding violation of equal rights of women and men. Women complained regarding unequal rights of women and men more often than men.

Over the reporting period, like in earlier periods, women mostly complained regarding possible discrimination in the area of employment relations and in the civil service: they complained regarding the fact that, for example, women were not provided with opportunities equal with those of men to get employed, to pursue career, to upgrade their qualification and receive the same work pay as men.

Another part of complaints regarding equal rights of women and men is related to advertising of goods and services, in which women are often stereotyped: certain their body parts are emphasised, woman's frailty is stressed, she is portrayed as a frivolous and unintelligent person who can entice and allure men. Such advertising is targeted more at men who should, according to producers of advertising, "get tempted" by products advertised by charming and sexy women.

* * *

The Office of the Equal Opportunities Ombudsperson received a complaint regarding possible indirect discrimination of women at work - in civil service. The author of the complaint claims that pregnant women, including herself, suffer discrimination because of their of pregnancy and because of the fact that, in case of short-term work disablement as a result of pathology that arose during pregnancy, the code of sickness, i.e. of pregnancy, is marked in the work disablement certificate, which provides information both to the employer and staff of the personnel department about the cause of the work disablement. According to the woman, the code of pregnancy, as well as codes of other types of sickness, can be easily deciphered, because this information is posted on the internet and in other sources. It is exactly because of pregnancy, according to the woman, that future mothers are not considered to be good and "useful for employer" employees, because supposedly they will be absent from work for long periods, will be raising children and therefore they are not worthy of motivation by cash benefits, work pay raises, provision of conditions for upgrading their qualification or advancement in their careers. The complaint author herself was refused work pay raise and a bonus payment by the employer, although these incentives were provided to other employees. Incidentally, the woman draws attention to the fact that mental patients also suffer because of the entering of the sickness code. The complaint author points out that the procedure for issuing work disablement certificates due to pregnancy and birth-giving is governed by Order No V-73/A1-42 of the minister of health care and of the minister of social security and labour, dated 2004-02-19.

Attention should be drawn to the fact that a number of women appealed to the Office of the Equal Opportunities Ombudsperson regarding these problems, complaining that they were discriminated against because of pregnancy.

The Ministry of Social Security and Labour, the Ministry of Health Care, the State Social Insurance Fund Board, the State Data Protection Inspectorate and the State Labour Inspectorate were approached during the complaint investigation with a request to express an opinion regarding the necessity of entering the sickness code on the work disablement certificate as well as with a query whether entering the sickness code on the work disablement certificate could be avoided and whether patient rights are sufficiently protected, i.e. whether the right to private life and confidentiality of sickness is preserved if the sickness code is entered on the work disablement certificate.

Vice minister of health care Rimantas Šadžius explained that pregnancy was not a disease, but a physiological state of a woman and an essential thing in such cases is the employer's attitude towards a pregnant women. According to the vice minister, it would be right for the employer to know about this state of a woman so that the employer could provide appropriate working conditions and plan its human resources when such a women is granted maternity leave. The vice minister suggested to initiate a meeting of competent institutions, during which the issue of entering the sickness code on the work disablement certificate according to the International Classification of Diseases could be discussed (if the patient requests the sickness code not to be specified).

The director of the State Social Insurance Fund Board informed that, according to the Law on Sickness and Maternity Social Insurance, Regulations of Sickness and Maternity Social Insurance Benefits, the cause of the person's short-term work disablement (initial and final diagnosis according to International Statistical Classification of Diseases and Related Health Problems (IDC-10) is important for the purpose of allocation and payment of sickness benefit. It is pointed out in the letter that the cause of short-term work disablement (diagnosis) is also important in other cases of payment of sickness benefit.

The director also explained that information entered in the work disablement certificate (including the cause of the person's short-term work disablement (diagnosis) is also intended for doctors treating the person and the Office in charge of determination of disability and ability to work when the person's ability to work is impaired for a long time or for good. Therefore, according to the director, entering initial and final diagnosis on the work disablement certificate according to IDC-10 cannot be discarded.

According to State Social Insurance Fund Board, the employer, being responsible for providing safe and healthy working conditions to an employee and obliged to ensure better safety and health at work for a pregnant woman, a woman who recently had a child or is breast-feeding, should be informed

in a timely manner about this state of the woman, particularly if the pregnancy proceeds with complications.

The state secretary of the Ministry of Social Security and Labour explained that legal protection of pregnant women and women raising children is regulated in detail in the area of employment. Article 2 Point 23 of the Law on Safety and Health at Work defines a pregnant woman as “Pregnant worker means a worker who submits to her employer a certificate issued by a health care institution to that effect”, Article 278 of the Labour Code governs safety of maternity at work, the Law on Equal Opportunities of Women and Men prohibits discrimination based on sex, particularly based on family or marital status.

The secretary of the ministry informs that the State Programme of Equal Opportunities for Women and Men states that insufficient opportunities for balancing family and job responsibilities, maternity and family duties is a major obstacle for women raising children to hold down a job or look for another one. Therefore, according to the state secretary, the Programme provides for measures, currently under implementation, intended to change traditional stereotypes held by employers about the role of women and men in economic activity, to improve situation of women facing obstacles in the labour market, to provide conditions for women and men to achieve better balance of work and family responsibilities and to develop social dialogue.

The payment procedure during the period of short-term sickness is explained in the letter of the Ministry of Social Security and Labour: according to the Law on Sickness and Maternity Social Insurance, short-term work disablement benefit is paid from two sources (employer’s and the State Social Insurance Fund’s (SSIFB) budget, and in case of statutory employees - from the SSIFB budget only. It is stated in the letter that the property determining the source of payment is the sickness code according to the International Statistical Classification of Diseases and Related Health Problems and therefore this information is necessary for both payers of short-term work disablement benefits - the employer and institutions administering the SSIFB budget.

According to the Ministry of Social Security and Labour, information contained in the work disablement certificate is required for the sick person himself/herself in case of disease complications as well as for a pregnant women, because the work disablement certificate intended for submission to the employer with the sickness code entered on it provides the employer with the information about employee’s pregnancy and obliges the employer to ensure better safety and health at work for the pregnant woman, and, in case of complications, this is deemed to be relevant for the women herself and her expected baby.

The state secretary of the Ministry of Social Security and Labour expressed the ministry’s opinion that it would not be expedient at present to drop entering a primary and final diagnosis according to IDC-

10 on the work disablement certificate, however, they also believe that this problem is to be discussed in search of a better option for the sick person and the benefit payer.

The State Data Protection Inspectorate informed that according to Article 2 Paragraph 9 of the Law on Legal Protection of Personal Data, health data are special personal data, and Article 5 Paragraph 2 of the same law provides for exceptions, in case of which special personal data are allowed to be handled (person's health data can be handled in cases laid down in Article 10 of the mentioned law and health legislation).

In the letter of the State Data Protection Inspectorate, it says that, in accordance with the Law on Legal Protection of Personal Data, the data manager in each case when handling personal data must determine the extent of personal data required in order to achieve the defined and legitimate purpose of handling personal data.

The deputy director of the State Data Protection Inspectorate explained that according to the Order of the minister of health care of 1996-10-28 "On introduction of the 10th revision of the International Statistical Classification of Diseases and Related Health Problems (IDC-10)" all institutions of the Lithuanian health care system started using IDC-10 from 1997-01-01; IDC-10 were distributed to health care institutions; heads of health institutions were tasked to ensure that clinics, polyclinics, and patient departments and offices in their subordination received and used correctly this classification. The letter draws a conclusion that IDC-10 is intended to be used by a defined circle of data managers.

The State Data Protection Inspectorate explained that, in accordance with Article 24 of the Personal Data Protection Law, the data manager must implement appropriate organisational and technical measures designed to protect personal data from destruction, disclosure and unauthorised handling. "Public disclosure of IDC-10 creates a possibility of violation of protection of the person's privacy, which is not in compliance with requirements of Article 24 of the law," says the deputy director of the State Data Protection Inspectorate.

The letter of the State Data Protection Inspectorate contains a proposal to consider a possibility to change the form of the work disablement certificate so that, for example, the section of the certificate where the sickness code is entered would be submitted only to institutions entitled to receive such information in accordance with the procedure established by the law. They also propose in the letter not to indicate the patient's sickness code in the section of the certificate which is to be submitted to the employer.

The chief state labour inspector informed that according to the data received from local offices of the State Labour Inspectorate (SLI), in 2005, the SLI received complaints from two pregnant women regarding employer's actions after the employer learned about their pregnancy and in both cases violation of labour legislation was confirmed and subsequently rectified. The letter informs that a

considerable number of women applied to the SLI (23 women applied to the SLI Klaipėda office alone), asking for advice on various issues related to regulation of their social guarantees and privileges.

According to the chief state labour inspector, all institutions of the Lithuanian Health Care System use IDC-10 since 1997, and, prior to that, diagnosis used to be indicated on the work disablement certificates without using coding. The letter provides an explanation that the meaning of IDC-10 codes is known both to the employer and others, because this information is posted on the internet and published in other publications. Therefore, a conclusion is made in the letter of the State Data Protection Inspectorate that anonymity of the person's health state is not guaranteed either in the first or in the second case.

It was found during complaint investigation that the procedure of issuing work disablement certificates and pregnancy and birth-giving leave certificates is governed by the Rules of Issuing of Work Disablement Certificates and Pregnancy and Birth-Giving Leave Certificates approved by Order No V-533/A1-189 of the minister of health care and the minister of social security and labour of the Republic of Lithuania on June 30, 2005. Point 2 of these rules lays down the purpose of issuing work disablement certificates - these certificates and pregnancy and birth-giving leave certificates justify absence from work and serves as a basis for allocating sickness or maternity social insurance benefits as well as a basis for extending payment of unemployment social insurance benefits. Point 63 of the mentioned rules states that certificates to pregnant women are issued by their treating doctors of personal health care institutions – obstetricians, gynaecologists or general practitioners.

Chapter XVI of the Rules of Issuing of Work Disablement Certificates and Pregnancy and Birth-Giving Leave Certificates lays down the procedure for filling out work disablement certificates, according to which the stub of the work disablement certificate (with prescribed entries) is kept by the health care institution, and a notification about work disablement of the insured person is submitted to a local office of the SSIFB. Point 95.1 of the same rules specifies how the name of the disease (diagnosis) must be documented, i.e. the certificate must contain the primary and the final main pathological condition (of diseases, injuries, etc.), because of which the person is temporarily unable to work, diagnosis indicating the sickness code according to International Statistical Classification of Diseases and Related Health Problems (hereinafter referred to as IDC-10).

Taking into account the concept of direct discrimination defined by the Law on Equal Opportunities of Women and Men and having evaluated provisions of Point 2.95 and other points of the Rules of Issuing of Work Disablement Certificates and Pregnancy and Birth-Giving Leave Certificates, no conclusion could be made that rights of pregnant women at work or in civil service are restricted or that they are subjected to worse working conditions because of submission of a work disablement certificate containing a sickness code that denotes pregnancy. Neither could the conclusion be made that

the Rules of Issuing of Work Disablement Certificates and Pregnancy and Birth-Giving Leave Certificates are contrary to the Law on Equal Opportunities of Women and Men.

Having evaluated a neutral provision laid down in Point 95.1 of the Rules of Issuing of Work Disablement Certificates and Pregnancy and Birth-Giving Leave Certificates providing that the primary and the final main pathological condition (diagnosis according to IDC-10) must be indicated in the work disablement certificate, because of which the person is temporarily unable to work, and also having taken into account written and oral complaints received by the Office of the Equal Opportunities Ombudsperson regarding violations of pregnant women's rights at work (about 30 complaints per year) and statistical data provided by the State Labour Inspectorate regarding complaints of pregnant women at work, a sufficiently substantiated conclusion was made that less favourable treatment because of their pregnancy can be applied to pregnant women who submit to their employer a short-term work disablement certificate about their sickness during pregnancy. Thus, from this point of view indirect discrimination on the basis of the person's sex was deemed to be present, because only women are physiologically capable of having a baby.

It has been *r e s o l v e d* to propose to the Ministry of Health Care and the Ministry of Social Security and Labour of the Republic of Lithuania to make an objective evaluation of a possibility to amend provisions of the Rules of Issuing of Work Disablement Certificates and Pregnancy and Birth-Giving Leave Certificates so that information on the sickness code entered in the work disablement certificate was not known to the employer, or to amend/supplement appropriate legislation so that the right to use the International Statistical Classification of Diseases and Related Health Problems was granted only to authorised institutions.

* * *

The Office of the Equal Opportunities Ombudsperson received a notification that a self-service carwash, *Plaunu Pats*, was going to arrange a campaign during which women buying four self-service carwash tokens will have their cars washed by carwash staff. According to the person applying to the Office such a campaign violates equal opportunities for women and men, requesting to investigate this case.

Based on this complaint, *Plaunu Pats UAB* was sent a query asking to explain based on what motives, in accordance to what and at whose initiative the mentioned campaign was carried out.

According to the head of company administration, *Plaunu Pats UAB* was in fact implementing a campaign during which on Tuesdays cars of women who buy four self-service carwash tokens will be washed by the carwash staff. In his explanation, the head of company administration also said that a

similar campaign was also held for men (on Wednesdays). The clarification also indicated that the mentioned campaigns have already finished.

It should be noted that the company internet website at that time was still posting information about the campaign for women in progress, while there was no information whatsoever posted there about a current or previous campaign for men. On arrival to the Office of the Equal Opportunities Ombudsperson, V.B., a manager of *Plaunu Pats UAB*, admitted that she organised the mentioned campaign. V.B. attributed this decision of theirs to not having being aware of the laws and was very sorry regarding the committed violation of Article 7¹ of the Law on Equal Opportunities of Women and Men.

In accordance with Article 24 Paragraph 1 Point 3 of the Law on Equal Opportunities of Women and Men and Article 41⁶ of the Administrative Code, a cash fine was imposed on V.B., a manager of *Plaunu Pats UAB*.

1.4. SEXUAL ORIENTATION-BASED DISCRIMINATION. INVESTIGATION OF COMPLAINTS

Over 2005, only two complaints were received regarding of sexual orientation-based discrimination. The Office also received a few verbal queries regarding possible sexual orientation-based discrimination, however, the complainants did not submit written complaints after receiving an explanation and required advice. As expected, complaints regarding this type of discrimination were certainly few, because a large majority of persons of non-traditional orientation tend to be reticent about their orientation and prevent potential discrimination this way, as well as possible related problems.

It should be to note that all persons who submitted complaints and asked for verbal advice were men who felt their rights were violated, mostly in the area of goods and services provision.

* * *

The Office of the Equal Opportunities Ombudsperson received a complaint of the Lithuanian Gay League (hereinafter referred to as the LGL) because the Centre Council of the Lithuanian Union of the Blind and Visually Handicapped (hereinafter referred to as the LUBVH) refused to sign the premise lease agreement with the Lithuanian Gay League only because of the special nature of this organisation. The complaint states that the LGL representatives together with the real estate agent visited the premises owned by the LUBVH at 5 Labdarių st. It was not explained at the time of the visit to the premises what kind of organisation intended to rent the premises and the administrator allegedly had said that, if they

found the premises acceptable, he would be happy to lease them. After a few days the agent allegedly explained that the premises would no longer be offered for rent, because, after the name of the lessee organisation was disclosed, it turned out that the administrator held a negative view of such lessees. The LGL was prepared to pay LTL30 per square metre of leased premises, which, according to the LGL representative, is also confirmed by the agreement dated 2004-11-30 with the real estate agent.

The LGL enclosed with the complaint an agreement signed between the LGL and the representative of *Nuomos Biuras UAB* regarding an obligation of the Lithuanian Gay League to pay a commission fee in case at least one of the below listed premises were rented, including the premises on 5 Labdarių st., offered for rent at LTL30 price per 1 square metre.

During the complaint investigation, the chairman and the deputy chairman of the LUBVH Centre Council and *Nuomos Biuras UAB* were approached with a request to indicate the reasons and grounds for refusing to lease the premises to the Lithuanian Gay League. They were also asked to explain whether there is an approved procedure, in accordance with which premises are leased. The deputy chairperson of the Centre Council of the Union of the Blind and Visually Handicapped was asked to comment his statement in the article entitled *Gays to make the fur of the Blind fly* in the *Lietuvos Rytas* daily of 2005-01-27, saying that “they would not lease the premises “to such kind”.

A manager of *Nuomos Biuras UAB* explained that she and the LGL representatives visited premises in five locations on 2004-11-30, however, the LGL representatives allegedly wanted to rent the premises owned by the LUBVH at 5 or 7 Labdarių st. The manager goes on to say: “Since the lease price offered by the LGL was about LTL20/sq m plus VAT (the area of the premises was 125 sq m), and the lease price asked for the premises by the LUBVH was considerably higher (about 30 Lt/sq m), this, I believe, was what determined the decision of the LUBVH regarding the choice of lessees.”

The chairman of the LUBVH Centre Council explained that the premises were not leased to Lithuanian Gay League because the lease price offer was too low.

The deputy chairman of the LUBVH Centre Council informed that, in the second half of November, the agent of *Nuomos Biuras UAB* brought representatives of a couple of firms who showed interest in the premises at 5 Labdarių st. Later, according to the deputy chairman, the agent called him to tell that one of the firms would agree to rent these premises, only they could pay 2900 per month, i.e. LTL23.39/sq m (inclusive of VAT), however, such a price was not acceptable to them, and they did not inquire what organisation wanted to rent these premises. The letter informs that the agent subsequently asked whether they would have vacant premises on Labdarių Street for leasing to the Lithuanian Gay League. The deputy chairman allegedly understood that this organisation was organising people’s leisure activities and their activity could disturb other lessees, because he had a similar case when the premises were leased to the *Raganiukės Teatras*. Therefore, in response to the query regarding the interview

published on 2005-01-27 in the *Lietuvos Rytas* daily, the deputy chairman explained that he had said that they would not lease the premises on Labdarių st. "to such kind", having in mind their noisy organisational activity only, and not their sexual orientation.

The deputy chairman of the LUBVH Centre Council also explained that no negotiations regarding lease of the non-residential premises took place between the LUBVH and the LGL, either of the parties did not wish and did not meet directly and had no discussion on the issue of the premise lease.

The deputy chairman of the LUBVH Centre Council further explained what the procedure for renting premises owned by the LUBVH was, i.e. first a search for a lessee is undertaken, in the second stage followed, at the request of the lessee, by direct communication with the lessor, without participation of real estate agency representatives. At this stage, they allegedly try to find out whether activity of the future lessee will compete with that of other lessees in this building, whether the nature of activity of the future lessee will be viewed negatively by the public, and whether it will not interfere with normal, quiet and safe use of the premises leased in the said building.

On 2005-02-22, Laima Vengalė, an adviser of the Office of the Equal Opportunities Ombudsperson, repeatedly e-mail the deputy chairman of the LUBVH Centre Council asking to specify at what price the organisation usually rented the premises. Attention should be drawn to the fact that during its complaint investigation the Office of the Equal Opportunities Ombudsperson received information that there was an advertisement in the window of the premises at 5 Labdarių st. saying "premises for rent".

Based on the submitted agreement signed between the LGL representative and the representative of *Nuomos Biuras UAB* regarding an obligation of the Lithuanian Gay League to pay a commission fee in case at least one of the below listed premises is rented, it can be seen that this agreement specifies a fixed price for the premises proposed for renting by *Nuomos Biuras*, which determines the size of the commission fee. The premises at 5 and 7 Labdarių st., the price per 1 square metre of which is indicated to be LTL30T, are listed in this agreement among the premises proposed for renting. Since the agreement has been signed by both parties, i.e. the LGL and the representative of *Nuomos Biuras UAB*, a conclusion was drawn that the lease price for the premises at 5 and 7 Labdarių st. was known to the LGL representatives and such lease price for the premises was acceptable to them because by signing this agreement they undertook to pay the representative of *Nuomos Biuras UAB* a commission fee of 50 percent of the lease price (monthly) for the premises.

During the telephone conversation of adviser Laima Vengalė with the LGL representatives, it turned out that the LGL representatives explained to the LUBVH representative that they intended to rent the premises at 7 Labdarių st. for three years and they even started discussing the possible advance payment for the routine repairs of the premises. Allegedly, the LGL representatives have understood

from the conversation that took place on 2004-11-30 with the LUBVH representative that the premises at 7 Labdarių st. (125 sq m) would be leased to them because allegedly there had been no obstacles for concluding the lease agreement for the premises.

In the second clarification the deputy chairman of the LUBVH Centre Council indicates that one of criteria used for selection of lessees is the evaluation of the nature of future lessee's activity, i.e. taking into account whether the nature of the future lessee's activity will be viewed negatively by the public.

Based on the material collected during the complaint investigation, it could not be judged whether the LUBVH refused to lease the premises to the Lithuanian Gay League only because the LGL did not accept the size of the lease fee and other lease conditions.

According to the representative opinion poll carried out on November 6-9, 2003, by the Vilnius Market and Opinion Research Centre (<http://www3.lrs.lt/owa-bin/owarepl/inter/owa/U0118271.ppt#6>) for the purpose of finding out the view of the Lithuanian population towards representatives of other races, religious and "problem" social groups, it was found that as many as 30 percent of the population indicated that only full absence of homosexuals would not raise problems to the Lithuanian society, and over 42 percent of the Lithuanian population indicated that the presence of 5 percent of homosexuals would not raise problems to the Lithuanian society. Only slightly over 3-4 percent of the Lithuanian population said that the presence of 50 and more percent of homosexuals would not raise problems to the society. Thus, the mentioned poll data show the intolerant attitude of the Lithuanian population towards persons of non-traditional sexual orientation. Taking into account these survey data, it is probable that the LGL activity in the rented premises (equipping a computer classroom and the LGL headquarters) could be viewed negatively by the society, the LGL would therefore failing to comply with the requirements of the LUBVH Centre Council for the premise lessees and the premises refused to be leased to them.

Having evaluated the criteria used for selection of future lessees as presented by the deputy chairman of the LUBVH Centre Council, a conclusion was made that the mentioned established evaluation criterion (on how the lessee's activity is viewed by the society) is clearly neutral and formally equal, however, its application could produce an actual limitation on the exercise of rights or give an advantage or priority. It is obvious that this evaluation criterion would result in subjecting the LGL (because of their homosexual orientation) to less favourable conditions of the premise lease than persons of heterosexual orientation.

Taking into account the described circumstances, it was decided to issue a warning to the deputy chairman of the LUBVH Centre Council regarding violation of Article 6 Paragraph 1 of the Law on Equal Treatment, i.e. sexual orientation-based indirect discrimination in the area of protection of

consumer rights, when because of their sexual orientation the Lithuanian Gay League was offered less favourable conditions of the premise lease.

1.5. DISCRIMINATION ON THE BASIS OF RELIGION AND BELIEFS. INVESTIGATION OF COMPLAINTS

One complaint regarding religion and one complaint regarding beliefs were received and reviewed in 2005.

The Office of the Equal Opportunities Ombudsperson investigated a complaint by S. B., proposing to initiate a law that would ensure possibilities for people of other faiths (he himself is a Krishnaite) to have meals according to the rules of their faith in school and hospitals, as well as for those in military service and in imprisonment institutions. The complainant claims that he and his family are at present discriminated against on the basis of religion.

The Ministry of Health Care informed that meals in closed groups of people (in the army, imprisonment institutions, hospitals, elderly people's homes, etc.) are organised taking into account physiological, age and health characteristics of people there, observing the recommended daily values of nutrients and energy approved by Order No 510 of the minister of health care of 25 November 1999. Further, according to the ministerial experts, nutrition in open groups of people, such as educational institutions, members of which consume part of their food ration at home, is impossible to be strictly regulated in free market conditions. Although according to the Law on Religious Communities and Associations of the Republic of Lithuania, religion is separated from the state, and at present in Lithuania there are many different religions and cults, members of which put forward different requirements, at times incompatible with principles of healthy nutrition, according to the Ministry of Health Care of the Republic of Lithuania, heads of institutions of non-religious designation could help, within the limits of reasonable compromise, organise special meals for such persons that would meet their religious needs. In addition, the ministerial experts suggest organising such meals in individual groups with individuals requiring special meals according to the requirements of religion, at their initiative.

According to representatives of the Ministry of National Defence (MoND), Article 21 Paragraph 3 of the Law on the Organisation of the National Defence System and Military Service (hereinafter referred to as LOMDSMS) lays down that the freedom of faith and conscience shall be guaranteed to servicemen and not restricted. LOMDSMS Article 63 Paragraphs 11 and 12 provide that servicemen are supplied with food according to the physiological nutrition standards established by the Government or its authorised institution. Physiological nutrition standards for servicemen, food energy standards and

main nutrients that a serviceman must get were approved by Resolution No 1178 of the Government of the Republic of Lithuania of 24 October 1997 “On Approval of Physiological Nutrition Standards for Servicemen”. Moreover, the MoND was obliged by this resolution to agree with the Ministry of Health Care and approve average daily rations of food products intended for servicemen. According to experts of the Ministry of National Defence, application of prescribed nutritional physiological standards, the same for all servicemen, including all essential food products and developed based on international experience, is not discriminatory, i.e. S.B. is not subjected to less favourable treatment than other servicemen. Prescribing nutritional physiological standards, the same for all servicemen, does not produce limitations or privileges, preference or advantage to individuals of certain religion or beliefs, prescribing nutritional physiological standards, the same for all servicemen, therefore cannot be considered to be religion-based discrimination.

The Ministry of Justice of the Republic of Lithuania notes that Article 26 of the Constitution of the Republic of Lithuania lays down the general principles of religious freedom. A possibility to observe eating regulations of the religion professed is to be considered part of the right to practice their faith, and different religions abound in such examples of religious practice (e.g.: a tradition spread in Christian churches to observe fast, i.e. to eat no meat, on Fridays or during Lent and Advent periods, a Jewish tradition of *kosher* food, a prohibition for Muslims to drink alcoholic beverages and eat pork, vegetarianism practiced by Buddhists or followers of the Krishna Consciousness Movement, etc.). However, the freedom of religion can be limited when it is necessary to guarantee public security and order, human health and moral as well as other fundamental human rights and liberties. Thus, the individual’s freedom of religion and possibilities to profess and practice it can be limited in order to assure rights and liberties of others (the society).

It is not always possible in pursuit of the best public interest to ensure equal opportunities for representatives of all faiths to profess and practice their religion (e.g., it is religious festivals of religious majority, and not of minorities religious, that generally become national holidays, and there is no possibility to grant the same status to festivals of religious minorities, thus those professing the majority religion enjoy better treatment in terms of celebrating religious festivals). In those cases when providing equal opportunities for believers of all confessions is not expedient, the state should try to ensure that the laws allow state institutions to be more flexible in applying the general norms, providing an opportunity for believers of minority faiths to observe the rules of their faith as well, with the exception of those cases, when providing such treatment would require a disproportionately large amount of state resources and pose a threat to fundamental rights and freedoms of others, public order, public security and human health and moral.

It should be noted that the obligation of the state to assure the right to profess and practice their religion and faith is more important in those institutions where there are no private alternatives and where individuals are placed not on their own accord (e.g., in the case of obligatory military service). For instance, the ban on visible religious symbols in a government school (such a ban is in effect in France) is a relatively lesser problem from the point of view of equal treatment and freedom of religion in case there are also private (as well as religious) schooling institutions where wearing such symbols is possible, implementing the right to practice the religion professed.

According to the 2001 population census, Lithuania had a population of 3,483,972 inhabitants, of which 5,729 belonged to religious minorities, the faith of which prescribes other eating rules than usual in the society (including religious minorities of Sunni Muslims (2860 individuals), Karaites - (258), Jews (12720, Seventh-Day Adventists (547), Buddhists (408), followers of Sri Sathya Sai Baba (107), of Krishna Consciousness Movement (265) and of Osho (12),).

It should be noted that at present about 8 thou convicts are serving their sentences in places of imprisonment. Making an assumption that demography of religious beliefs of inmates in imprisonment institutions corresponds to the demography of religious beliefs of the Lithuanian population and according to the 2001 population census data about religious identity of the Lithuanian population, the share of inmates in imprisonment institutions, religion of which requires to follow different eating rules, can be thought to comprise only about 0.16%, or approximately 13 persons.

After the evaluation of replies and opinions of all interviewed institutions during the complaint investigation, a conclusion is made that at present it is not expedient to amend the already effective legislation on eating according to faith rules. Having determined that the current legislation does not violate the requirements of Article 3 of the Law on Equal Treatment of the Republic of Lithuania, it was decided to reject the complaint as the violations claimed therein were not confirmed.

1.6. DISABILITY-BASED DISCRIMINATION. INVESTIGATION OF COMPLAINTS

Last year, with the new Law on Equal Treatment establishing anti-discriminatory principles in various areas of public life towards the disabled going into effect, higher level of activity of disabled persons in protecting their rights was expected. However, according to statistical data for 2005, last year, the Office received only 13 complaints, of which only in 3 cases the Office was competent to help the complainants. Having in mind that at present in Lithuania there are over 250,000 disabled people, of which only 19,000 have completed higher education, with nearly the same number of persons employed,

the work pay being their main source of living, the statistics in this case certainly does not reflect the real situation of the disabled people in the society and raises many problem issues.

Nearly all complaints received in 2005 regarding disability-based discrimination were made in the area product and service supply.

The Office of the Equal Opportunities Ombudsperson received a complaint from a Group 1 disabled person regarding a possible violation of the Law on Equal Treatment. Unable to move his legs because of the spinal injury, the complainant is forced to use a wheelchair. In his complaint, he claims that he applied for a preferential loan in one of the Lithuanian banks in 2001. At the time of issuing the loan, the bank demanded the loan beneficiary to get a life insurance coverage. Because of this, in 2002, he entered into an agreement for 26 years with one insurance company on unit-linked life insurance and critical illness insurance. Under this agreement, the insured person paid monthly premiums of LTL150, which were credited to his special account.

In 2004, the loan-issuing bank no longer requested the loan beneficiary to be covered by life insurance. Because of this, the complainant applied to the insuring company regarding termination of the insurance agreement and drawing the money accrued in his account. After the agreement termination, it was explained that because he was a Group 1 disabled person, he was insured applying the 250 percent risk probability and nearly all the amount of his accrued funds (about LTL3000) was expended to compensate for this risk.

The director general of the insurance company explained that after evaluation of the applicant's physical condition, the life insurance agreement was concluded applying an increased insurance risk rate, because the probability of septic complications for people with innervation disorders is much higher, which may have a direct impact on the risk of death.

In response to the query of the Equal Opportunities Ombudsperson, the Ministry of Health Care informed that in Lithuania there is no official statistics or approved methodology that would substantiate the statements that disabled individuals face a bigger life loss threat because of their disability-related health complications.

Having carried out the investigation, the Ombudsperson found that the actions of the insurance company with regard to the disabled person, as a result of unfounded insuring of his life on unfavourable conditions, were discriminatory and violated provisions of the Law on Equal Treatment.

1.7. DISCRIMINATION ON THE BASIS OF RACE AND ETHNIC ORIGIN. INVESTIGATION OF COMPLAINTS

According to data of the 2001 population census, ethnic minorities in Lithuania comprise 16.5 percent of the population. The most diverse major cities in terms of their ethnic composition are Vilnius (Lithuanians comprise 57.8 percent, Poles - 18 percent, Russians - 14 percent, Belarusians - 4 percent, Ukrainians – 1.3 percent, other ethnicities - 1.4 percent of the population) and Klaipėda (Lithuanians - 71.3 percent, Russians - 21.3 percent, other ethnicities - 1.2 percent). Intolerance is mostly suffered not by major, but relatively small (2570 - 4000 people) Roma and Jewish communities. According to the public opinion poll, the image of Roma in the society is the most negative among all ethnic groups. In 1990, 59 percent of the respondents said they would not want to live in next door to Roma, in 1999 - 62 percent, and in 2005 - 77 percent. Comments made about Roma in the media are of particular significance for shaping the attitudes, because of which it is so difficult at present to encourage positive contacts between Roma and other representatives of the society. This is clearly shown by the subjects and the number of complaints received.

Since January 1st, 2005, when the new law went into effect, the Office of the Equal Opportunities Ombudsperson investigated 18 complaints claiming ethnic origin-based discrimination. The absolute majority of complaints came from Roma people (11), of which 4 were regarding housing (3 of them were made repeatedly), 3 - regarding of personal identity documents, 2 - regarding work and 1 - regarding each a decision of the Seimas Ombudsperson and activity of the pre-trial investigation officers and the court. Persons of other ethnic origins (7) complained regarding the following issues: 2 - regarding work, 2 - regarding discrimination at the area of services, 2 - regarding actions of pre-trial investigation officers, 1 - regarding each language and disrespectful and insulting behaviour. It should be noted that more complaints were submitted by men, and complaints were also received from legal persons. This is to be said about *Romų Visuomenės Centras*, the Roma Civic Centre - 2 complaints; the Lithuanian Gypsy Community *Čigonų Laužas* and Vilnius City Gypsy Community – one complaint regarding each. Two complaints were forwarded for investigation by the Human Rights Committee of the Seimas of the Republic of Lithuania. Complaints were made in writing mostly by citizens of Vilnius.

Some of these of complaints were either not confirmed or it turned out in the course of investigation that they fell into the category of complaints, review of which was outside the competence of the Equal Opportunities Ombudsperson.

* * *

The director of the public institution *Romų Visuomenės Centras*, Svetlana Novopolskaja, the president of the Lithuanian Gypsy Community *Čigonų Laužas*, Josifas Tyčina, and the chairman of Vilnius City Gypsy Community, Stepas Visockis, applied to the Office of the Equal Opportunities

Ombudsperson in writing asking to make a legal evaluation of the fact of demolition, that took place on December 2nd and 3rd, 2004, of Roma-owned residential houses and other buildings (structures).

In the investigation of this complaint, queries were sent to relevant institutions, asking to express their opinion regarding the demolition of residential houses and other structures owned by residents of Vilnius Gypsy Camp in Kirtimai, regarding actions of Vilnius City municipal officials in addressing the burning social problems in this settlement. Expressing a separate opinion was requested regarding lawfulness of the actions of police officers and whether all this contributed to ensuring harmonious national relations in the state.

In response to the query by the Equal Opportunities Ombudsperson, the deputy mayor of the City of Vilnius, Gediminas Paviržis, indicated that <...> “Roma owned-structures built in the settlement in Kirtimai, Vilnius City, were not authorised, therefore, they are illegal constructions, Grinda UAB dismantled only the unauthorised non-residential structures”. Speaking to persons of Roma origin and viewing filmed footage by director S.Beržinis reveal that essential household utensils were being carried out of the structures to be demolished, which allows claiming that residential structures had also been demolished. It should also be noted that in accordance with provisions of the Law on Construction of the Republic of Lithuania, the result of unauthorised constructions are not classified according to their residential or non-residential designation, thus, for the purpose of evaluation of the very fact of demolition of Roma owned-structures, designation of such structures has no legal relevance. The main emphasis in this situation is on the fact that the result of unauthorised constructions, i.e. illegal structures, is also property of Roma. The right of ownership is a natural human right which can be only restricted in cases and in accordance with the procedure prescribed by the law.

According to the head of Vilnius City Chief Police Commissariat, Erikas Kaliačius, <...> “no characteristics of criminal act or self-will were determined to have been present in actions of the police officers in dismantling non-residential structures in the Gypsy camp”.

The director of the Physical Planning and Construction State Supervision Department of Vilnius County Manager’s Administration, Aurelijus Kuisys, informed that <...> “demolition of buildings in the territory of the Gypsy camp in Kirtimai was carried out, in violation of the Technical Construction Regulation STR 1.09.06:2002 “Construction suspension. Elimination of the result of unauthorised construction”, by the Administration of Vilnius City Municipality at its initiative.” The mentioned letter also informed that no structures were demolished in Vilnius County in 2004 based on a court judgement.

In response to an additional query submitted to the mayor of Vilnius City regarding placing residents of the Gypsy Camp in Kirtimai on waiting lists for social housing lease, mayor Artūras Zuokas explained that <...> “according to Order No 30-45 of the director of the Administration of Vilnius City Municipality of January 14th, 2005, 23 families/individuals who declared the Gypsy Camp in Kirtimai as

their place of residence were entered into the approved waiting lists for social housing lease. Applications of another 8 families were registered later; therefore, they will be entered into waiting lists for social housing lease for 2006.”

In 2005, social housing was leased to one family that declared the gypsy camp in Kirtimai as its place of residence. All structures in this gypsy camp are unauthorised constructions, and the Municipality does not intend to deal with the issue of their legal registration.

The case under investigation has been broadly reported in the press and information television programs. According to the director of the Human Rights Monitoring Institute, Henrikas Mickevičius, <...> “earlier cases of demolition of the residential houses and other structures of residents of the gypsy camp in Kirtimai violate a human right to adequate housing, a right to respect of private life and a right to protection of ownership. Such socially insensitive behaviour of authorities does not contribute to Roma integration, escalating negative stereotypes and contributing to further exclusion of Roma”.

It was found during the investigation that the Physical Planning and Construction State Supervision Department of Vilnius County Manager’s Administration and the Administration of Vilnius City Municipality did not, when carrying the unauthorised demolition works of built structures, take into account requirements of Article 28 of the Law on Construction of the Republic of Lithuania, of Subpoints 12.1. and 12.3., Points 16 and 17 of the Technical Construction Regulation STR 1.09.06:2002 “Construction suspension. Elimination of the result of unauthorised construction” approved by Order No 216 of the minister of environment of the Republic of Lithuania dated 30 April 2002 and of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, violated rights and legitimate interests of the users of demolished buildings. This building demolition campaign of the Administration of Vilnius City Municipality generated negative response both in Lithuania and abroad. Obviously, the mentioned actions of municipal officers increase social exclusion of Roma, do not encourage their integration into the society, and, on the contrary, strengthen their negative image.

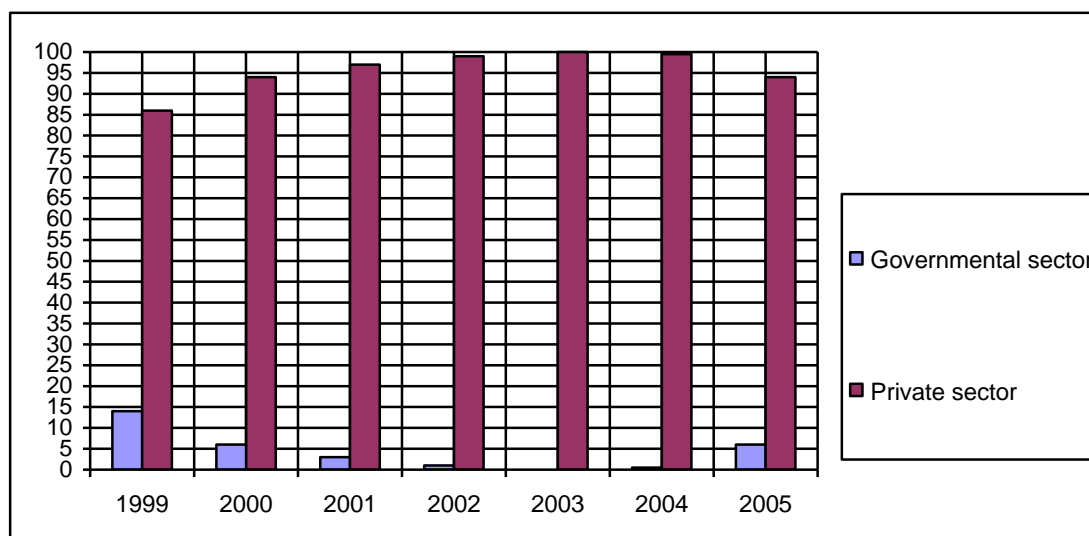
In 2004, 191 unauthorised constructions were registered in Vilnius County, 3 claims were submitted to the court regarding enforcement of developer’s obligations to demolish structures, no structures were demolished based on the court judgement. Whereas the Administration of Vilnius City Municipality was not demolishing unauthorised structures built in Vilnius city, and structure dismantling without court judgement was applied only with respect to Roma-owned structures at the initiative and expense of the municipality, although, according to provisions of Article 27 Paragraph 3 of the Law on Construction of the Republic of Lithuania, state supervision of all structures is carried out by the County Manager’s Administration.

Thus, the Administration of Vilnius City Municipality has by demolishing at its expense and initiative Roma-owned buildings violated requirements of Article 3 Paragraph 1 of the Law on Equal Treatment, and it was therefore decided to warn the mayor of Vilnius City for violation of requirements of Article 3 Paragraph 1 of the Law on Equal Treatment; to request, on the basis of Article 3 Paragraph 2 of the Law on Equal Treatment, the Government of the Republic of Lithuania to set up an interdepartmental working group for the development of a new program for Roma integration into the Lithuanian society, which would be in line with the requirements of the European Commission against Racism and Intolerance and the Advisory Committee of the Council of Europe and provide for measures for carrying out legal registration of buildings located in Kirtimai and addressing pressing social problems.

1.8. DISCRIMINATORY ADVERTISEMENTS

In 2005, according to Article 8 of the Law on Equal Opportunities of Women and Men and Article 10 of the Law on Equal Treatment, the Office sent a large number of queries regarding advertisements of discriminatory nature in the area of labour relations and civil service. In earlier years of activity the Office paid more attention to job advertisements printed in the national press and the internet. In 2005, more attention was paid to regional press in order to encourage development of equal opportunities in Lithuanian regions. It should be noted that, just like throughout all years of activity of the Office, most failures to comply with legislative requirements in this area were registered in the private sector (**Fig. 9**).

Fig. 9 - Variation in the ratio of queries regarding advertisements of discriminatory nature to government bodies and private companies



Employers would often specify requirements regarding sex or age in job advertisements, violating provisions of the Law on Equal Opportunities of Women and Men and of the Law on Equal Treatment. Attention should be drawn to the fact that job advertisements printed in the regional press, in which failures to comply with the law were detected, were dominated by requirements regarding sex violating provisions of the law. Fewer advertisements were noticed, discriminating on the basis of age. Either requirements of discriminatory nature regarding sexual orientation, disability, racial or ethnic origin, religion or beliefs in job advertisements or discriminatory attitudes in advertisements inviting to study have not been observed.

Upon detection of a job advertisement failing to comply with the requirements of Article 8 of the Law on Equal Opportunities of Women and Men or Article 10 of the Law on Equal Treatment, the employer having placed such an advertisement would be sent an official query requesting a clarification as to based on what motives and in accordance with what an advertisement containing discriminatory requirements was published. Cases were frequent when, because of the stereotypes prevailing in the society, titles of certain professions or positions were indicated in a job advertisement in the feminine gender, e.g. padavėja (waitress), buhalterė (female accountant), siuvėja (seamstress), pardavėja (salesgirl). In these cases, the employer was additionally informed that according to Resolution No 5(74) of the State Lithuanian Language Commission of November 4, 1999, names of positions, professions, legal status, ranks, titles, scientific degrees and the like were, when speaking in general terms, to be expressed by nouns in masculine gender.

In response to the query of the Office, employers would mostly indicate in writing that they placed a job advertisement failing to meet legislative provisions not through of ill-will, without any

intention of discriminating some particular group of residents, would apologise for the job advertisement failing to meet legislative requirements and would promise not to place any advertisements of discriminatory nature. Repeated job advertisements of discriminatory nature placed by the same companies, after the Office approached the employer, have not been registered.

Attention should also be drawn to the fact that, in 2005, more telephone calls and e-mail queries were received from employers and employment agencies in those cases when an employer or employment agency was not sure whether the job advertisement planned to be published was in compliance with all the requirements of the Law on Equal Opportunities of Women and Men and the Law on Equal Treatment. The Office would provide all information to such employers and employment agencies on provisions of the mentioned laws.

2. SCIENCE AND STUDY INSTITUTIONS

Article 4 of the Law on Equal Opportunities of Women and Men lays down an obligation for education establishments, science and study institutions to implement equal rights of women and men. Paragraph 1 Point 1 of the same article obligates education and science institutions to ensure equal conditions for women and men for admission into vocational training schools and institutions of further and higher education.

In comparison to 2004, the number of students in institutions of higher education has increased by slightly more than 4 percent. More students were admitted to 8 institutions of higher education. Some institutions of higher education admitted slightly more males, while others admitted more female students. Only the Lithuanian Military Academy of General Jonas Žemaitis, Kaunas University of Technology, Vilnius Gediminas Technical University and the Lithuanian University of Agriculture admitted for studies more male students. No violations were observed in relation to admission of students into schools of higher education, and such gender distribution is determined by the nature of future work of specialists to be trained.

7 colleges and schools of further education admitted for study more male than female students. In comparison to 2004, 6 colleges (Kaunas College, Vilnius College, Vilnius Construction and Design College, Panevėžys College, Lithuanian Nautical College, Kaunas Forest and Environment Engineering College) admitted for studies a higher number of students.

No complaints were received over the reporting period regarding identified actions of education establishments, science and study institutions violating equal opportunities of women and men such as

different requirements and conditions for women and men for admission for training or studies and in knowledge assessment.

Admission rules to institutions of higher education, colleges and schools of further education did not provide for any privileges and quotas discriminating on the basis of sex. However, the problem of traditionally “female” and “male” professions remains. Encouraging the youth to choose non-traditional professions requires targeted education programmes, public awareness campaigns, short-term special education, employment and policy measures for uprooting stereotypes of the social role of a woman and a man.

3. PROJECTS

MODERN MEN IN ENLARGED EUROPE: DEVELOPING INNOVATIVE GENDER EQUALITY STRATEGIES

Project duration: October 2004 - December 2005

Current situation:

Men who want to make time for child care are regularly encountering cultural obstacles in their social and professional environment. It is still usual that child care leave is taken by a mother. Therefore, men who break this stereotype and stay home to look after their baby in a way challenge the reputation of “a good mother”. At the same time, they risk losing their “manliness” in the eyes of the society and friends.

In order to encourage implementation of principles of equality, it is important to promote modern and democratic understanding of gender roles. It is necessary to understand that the traits of professional development and family care are acceptable for both sexes. It is important to develop new aspects of manliness such as parenthood and care. This would narrow the separation between the public and private realms and the opposition of roles of men and women in the society. As foreign experience shows, dispelling stereotypes of female and male roles of similar nature is one of the most effective gender equality strategies. The goal of the project activities was to draw the attention of the society to the role of men as fathers. In modern Lithuania, they are mostly visible as active public figures, however, it is forgotten that men also have families and taking care and making time for them is not the job of women alone.

Objectives: to encourage men to take a more active part in family life, to make more active use of the option to go on child care leave and to go into professions stereotypically considered as female.

Measures:

1. Created an international internet website - www.dadcomehome.org - posting information about the project, social surveys of male roles, statistics and other information.
2. Carried out a qualitative study entitled *Men and Child Care Leave* that revealed experiences of men who took child care leave in Denmark, Iceland, Malta and Lithuania and reactions by the society. Issued a publication presenting the results of this international study in Lithuanian and English.
3. Carried out a survey of politicians and civil servants that revealed how politicians view possible legitimation of a more active father's role in child care (as well as the possibility for legitimation of a paternity leave in Lithuania), reasons because of which fathers do not exercise their right to paternity leave in Lithuania and measures that would encourage more active participation of men in family life and sharing household chores and childcare jobs with their partner on equal footing.
4. Published a book entitled *Tėčiams tai patinka!* (Men Do It!) illustrated with fathers' photos and based on stories of fathers who took child care leave.
5. Translated a book by a Norwegian researcher, Oystein Gullvag Holter, entitled *Can Man Do It?* (Nordic Council of Ministers, 2000) into Lithuanian and published it under a title *Ar vyrai tai gali?*
6. As part of the communication campaign, posters posted on outdoor stands and advertising *Tėvystė veža!* (It's cool to be a dad!) broadcast on LTV informed fathers about their right to child care leave.
7. In 2005, on the occasion of March 8th, the Equal Opportunities Ombudsperson visited Vilnius Maternity Home to inform parents of the newly-borns about their right to child care leave.
8. In cooperation with Vilnius City Municipality, the celebration of the Father's Day was held on June 5th, 2005, on Europos square, attracting much public attention.
9. Exhibition *Tėčiai ir vaiko priežiūros atostogos* (Dads and Child Care Leave) was prepared and exhibited during the project on Europos square, the Ministry of Social Security and Labour, the Ministry of Education and Science and Estonian Exhibition Hall.
10. In 2005, three seminars were held for diverse target groups in Lithuania:

11. International conference *Fathers on Paternity Leave: Men Do It?*, held on November 17-18, 2005, in Vilnius, was attended by representatives of 26 countries. The conference was also sponsored by the East-East Programme of the Open Society Lithuania Fund.

The project was financed by the European Commission under the *Programme relating to Community Framework Strategy on Gender Equality (2001-2005)* and the Government of the Republic of Lithuania. The event on Father's Day was also sponsored by Vilnius City Municipality.

Project coordinator: Office of the Equal Opportunities Ombudsperson

Project partners: Centre for Equality Advancement, Social Research Centre of Vytautas Magnus University, Danish Research Centre for Gender Equality, Icelandic Centre for Gender Equality, Maltese Employment and Training Corporation.

LESSONS OF EQUALITY IN VILNIUS CITY NURSERY-SCHOOLS

Project duration: 2005

Objectives: to increase the number of men working in nursery-schools as educators, to introduce the principle of gender equality and the importance of implementation of this principle for the development of children to educators and pedagogues working with preschool-age children

Measures:

1. Training on gender equality for Vilnius nursery-school educators (12 seminars attended by 400 Vilnius nursery-school educators and principles), presenting the theory of gender equality, destereotyping child upbringing and the legal mechanism for ensuring equal opportunities for women and men in Lithuania.
2. A publication intended for nursery-school educators and entitled *Mergaitės ir berniukai viename pasaulyje* (Girls and Boys in One World) by Birutė Jakubkaitė, examining stereotypes deeply rooted in the society about gender roles, the contribution of parents and pedagogues to the development of an all-rounded and free personality, including examples of practical exercises for developing respect for gender equality (published by the Social Responsibility Centre).

The project was financed by the US Democracy Commission

Project coordinator: Social Responsibility Centre (coordinator)

Project partner: Office of the Equal Opportunities Ombudsperson

CAPACITY BUILDING IN LITHUANIAN MUNICIPALITIES THROUGH SUPPORT FOR GENDER EQUALITY IMPLEMENTATION

Project Duration: March-December 2005

Project objective: to continue the work started during a project entitled *Improved democracy through gender balanced decision making process in local administrations in Lithuania* implemented by the Office in 2003-2005; to encourage municipalities to undertake gender equality work; to create an informal network of municipal employees interested in issues of gender equality; to encourage discussions on equality of women and men.

Measures:

1. During 5 seminars in Lithuanian regions - Šiauliai, Telšiai, Ukmergė, Alytus and Vilnius – Swedish and Lithuanian experts delivered lectures to staff of county administrations and administrations of surrounding municipalities on gender equality, its implementation practice in Swedish and Lithuanian municipalities as well as specific measures for gender equality work in local authorities.

2. Published Guidelines for the Implementation of the Gender Equality Principle designed for Lithuanian municipalities, which will be presented to the management of all municipalities and disseminated in municipalities in 2006. The Guidelines are intended for municipal politicians as well as municipal employees, involved in setting strategies for staff work, providing social and public services, preparing diverse information for municipal residents, planning development of the municipality, etc. The guidelines prepared during the project are available in *.pdf* format in the website of the Office at www.lygybe.lt

The project was financed by SIDA.

Project partners: Office of the Equal Opportunities Ombudsperson, Lithuanian Association of Local Authorities, Swedish Association of Local Authorities.

MODERN MEN IN ENLARGED EUROPE: FAMILY-FRIENDLY POLICIES

Current situation

As women are becoming more active and as their role in public life is changing, this brings us to rethink male social roles as well and to encourage them to be more active as parents. It must be stressed that new roles of men are inevitable in order to achieve gender equality in the society, more equal sharing of responsibilities between men and women in family and in public life. The old attitudes are still alive: a man is attributed the role of a bread winner, and a woman - the role of a home fire-tender. Such attitudes prevail not only among men themselves, but also among their employers: complaints are frequent in the experience of the Office that employers view negatively male employees who express a wish to go on child care leave. Gender stereotypes remain to be one of the obstacles most difficult to overcome in pursuit of embedding equality principles in Lithuania.

Project objectives:

- to encourage men to balance professional and family duties and to participate more actively in family life;
- to encourage employers to introduce innovative work organisation forms, helping employees to balance more successfully professional and family duties, and to undertake new initiatives to create a more productive working climate;
- to investigate what cultural (prevailing stereotypes about gender roles, traditions, values), institutional and ideological factors prevent men from balancing responsibilities at work and in the family by spending more time with their family;
- to investigate what political and institutional mechanisms could provide more favourable conditions for gender equality in the family;
- to encourage men to go into professions stereotypically considered to be female;
- to encourage men to exercise the right to child care leave entrenched in laws;
- to bring about discussions in the society about the role of men in order to achieve gender equality and to stress that the problem of family and career balancing is just as topical for men as it is for women, which encourages positive change in the society.

Project activities

The project is aimed to encourage change in both private and public realms. Activities of the project planned to be implemented in October 2005 – December 2006 include:

1. **Communication campaign** in the media (TV, radio, press, public spaces) with the objective of urging men (and women) to get rid of sex role stereotypes.
2. **Social advertising** with the objective of drawing attention of the society to existing problems.
3. Qualitative and quantitative **study** of political, ideological, institutional, cultural and value-based factors preventing men from more effective balancing of their career and family in all partner countries (such comprehensive studies have so far not been carried out in Lithuania).
4. Detailed **recommendations** for measures to be taken by the state and employers in order to ensure an opportunity for employees (particularly for men) to balance their career and family.
5. **Seminars** for employers, politicians and trade unions on issues of job and family balance and gender stereotypes.
6. **Publications:** (1) study materials; (2) recommendations for employers and employees; (3) information materials; (4) translation of a book into Lithuanian.
7. **International conference** with the objective of disseminating good practice in the enlarged Europe.
8. Support of the project **website** at www.dadcomehome.org.

Project partners: Office of the Equal Opportunities Ombudsperson (coordinator), Centre for Equality Advancement, Social Research Centre of Vytautas Magnus University, public institution *Europos socialiniai, teisiniai ir ekonominiai projektai (European Social, Legal and Economic Projects, ESTEP)*, Danish Research Centre for Gender Equality (CeLi), Icelandic Centre for Gender Equality, Italian Economic and Social Research Institute (IRES)

The project is financed by the European Commission under the *Programme relating to Community Framework Strategy on Gender Equality (2001-2005)* and by the Government of the Republic of Lithuania.

EUROPEAN NETWORK OF SPECIALISED EQUALITY BODIES - EQUINET

Project duration: December 2004 - November 2006

Project objective: to expand the European network of independent equality bodies created in 2002, to exchange experience, thus contributing to smooth implementation of the European Union's directives and regulations prohibiting discrimination on the basis of age, ethnic origin, religion, beliefs, sexual orientation and disability in member states.

Measures:

1. Work of project participants in the following working groups:
 - Information exchange
 - Strategic enforcement of anti-discrimination principles by specialised bodies
 - Dynamic interpretation of terminology in the area of discrimination
 - Equality policy formation in the EU
2. Posting of information on practices of fighting discrimination on the Internet at www.migpolgroup.com
3. Training of staff of partner institutions (planned training areas: appropriate use of terminology; powers of equality institutions according to EU Directives; positive discrimination; data collection)
4. Cooperation with similar already operational networks and stakeholder groups (e.g., with gender equality experts, AGE platform, etc.)
5. International partner meetings

The project is financed by the European Commission.

Project partners: Dutch Equal Treatment Commission (coordinator) and other 27 specialised gender equality institutions of the European Union

More web information about the project will be available at www.migpolgroup.com

ATVIRI IR SAUGŪS DARBE.LT (OPEN AND SAFE AT WORK.LT)

Project duration: June 2005 - December 2007

Current situation:

Lithuania is one of the most homophobic states in the European Union. Intolerance of its society towards gays and lesbians is demonstrated by campaigns against gays, exaggerated media reactions on these issues and open hostility expressed by ordinary citizens and state officials towards homosexuals. Although standards prohibiting sexual orientation-based discrimination have been incorporated into the Lithuanian legislation, the mechanisms for protection of rights are not always working effectively. People do not dare to reveal their non-traditional sexual orientation, afraid of hostility of employers or the society. Moreover, there is a lack of objective information and studies on this topic in Lithuania; the society clearly does not understand what problems homosexuals encounter in their everyday life.

Objectives: to reduce employee discrimination based on sexual orientation; to strengthen professional and legal competence of target group representatives; to raise the level of community and civic activity of the target group and to foster tolerance in the society and encourage intolerance to manifestations of homophobia in the Lithuanian society.

Measures:

- A website - www.atviri.lt;
- A study entitled *Gėjų, lesbiečių ir biseksualų padėtis Lietuvos darbo rinkoje* (Situation of Gays, Lesbians and Bisexuals in the Lithuanian Labour Market);
- An Equal Treatment Model will be developed, which, in addition to other parts, will include:
 - Interpretation of legal terms of discrimination according to current legislation and practice of the Republic of Lithuania and the EU;
 - Legal recommendations to those who suffered discrimination based on sexual orientation in the labour market or in other areas defined by the law (in qualification upgrading, selection of training programmes, obtaining information or purchasing goods and services, etc.) as well as to those who belong to the discrimination risk group;
 - Legal recommendations for employers (legislative requirements of the Republic of Lithuania and the EU and duties in providing working conditions, recruitment and dismissal of employees, providing good working environment, etc.);
 - Recommendations for trade union representatives on protection of rights of persons belonging to sexual minorities in the area of employment;
 - EU court case-law examples of cases of violation of rights of homosexuals or bisexuals;

- Other materials, the need for which will be identified during the implementation of project activities.
- Information material about the Law on Equal Treatment and mechanism for protection of rights in Lithuania;
- Expert evaluation of public policy and recommendations;
- Seminars for gays, lesbians and bisexuals;
- Seminars for decision-makers, civil and municipal servants, staff of labour offices and employment agencies, employers and the academic community. A variety of different topics will be discussed at seminars/round table discussions depending on the target group and the period during which the event will take place: legal and practical aspects of sexual orientation-based discrimination, practice of the Republic of Lithuania and the EU in this area, legal regulation of individual aspects of discrimination in the Republic of Lithuania and the EU (e.g., forms of discrimination, prohibition limits, issues of damage compensation, etc.), examples of good practice, outstanding problems and ways for their solution used in other states, etc.
- Radio programmes;
- An international conference in Vilnius.

Partners of the EQUAL Development Partnership in Lithuania: Office of the Equal Opportunities Ombudsperson, Lithuanian Gay League, Centre for Equality Advancement, Social Research Centre of Vytautas Magnus University, public institution *Europos socialiniai, teisiniai ir ekonominiai projektai (European Social, Legal and Economic Projects, ESTEP)*, Gaumina UAB

International Cooperation for Equality: TRACE (Transnational Cooperation for Equality) is an international development partnership uniting employer confederations, trade unions, governmental institutions and non-governmental organisations working to prevent sexual orientation-based discrimination and to ensure possibilities for gays, lesbians and bisexuals to enjoy the same rights in the workplace as those enjoyed by their colleagues.

The project is financed under the European Community EQUAL Programme

More information about the project is available in the project website at www.atviri.lt

FIGHTING FOR OUR RIGHTS!

Duration: January 2005 - 2006 December

Objectives: to help people with intellectual disability to integrate into the labour market; to identify and support potential claimants with intellectual disability in protection of their rights; to rely on the reputation of European institutions in order to achieve full implementation of the EU directives on disability; to train persons working with the disabled on the local, regional and national level; to use opportunities provided by legal provisions; to provide legal information to people with intellectual disability and to those protecting their rights.

Project activities:

- Drafting of a single document explaining the term “disability”;
- Collection of examples of good practice in project partners (about 80 examples from all Europe);
- Application of structured good practice examples in the practice of states that already transposed the EU requirements into their law and of those that are delaying this;
- Support to equal opportunities centres in Europe and encouraging cooperation among them;
- A congress of representatives of European governmental organisations ensuring implementation of rights of the disabled was held in the summer of 2005 in Brussels, where a presentation about the Office was made. Congress participants were familiarised with the functions of the Office, its work peculiarities and results, as well as burning problems in Lithuania;
- An international lawyer’s conference *Fighting for Our Rights* was held on October 7-8, 2005, in Lisbon, attended by the Office representative;
- In accordance with the project programme, two national seminars will be organised in Lithuania in 2006.
- A meeting of ombudsmen institutions of partner countries working in the area of disability-based discrimination will be held in Vilnius in 2006.
- Preparation of accessible information and its provision in partner countries.

The project is financed by the European Commission.

Project partners: international organisation Inclusion Europe (coordinator), Belgian, Portuguese, German, British, Czech and French organisations

Partners in Lithuania: Office of the Equal Opportunities Ombudsperson, Lithuanian Association of Care for People with Intellectual Disability *Viltis*

More information about the project is available in the website at www.inclusion-europe.org

4. CONCLUSIONS AND PROPOSALS

1. In 2005, the Office of the Equal Opportunities Ombudsperson reviewed complaints regarding all grounds of discrimination provided for in the Law on Equal Opportunities of Women and Men and the Law on Equal Treatment. This shows that the problem of discrimination is important for Lithuanian residents, with many of them facing discrimination in everyday life.
2. The Office is mostly approached by residents of major Lithuanian cities, while people in regions are exercising their rights less. Therefore, at least one trained employee is required in each municipality to provide advice to residents on issues of equal opportunities. Education of residents in the regions on the topic of discrimination remains a priority.
3. It is expedient to continue ensuring that preventive work, education, publishing, cooperation with universities and other science and study institutions and nongovernmental organisations remains one of the key activity areas of the Office.
4. In order to ensure equal opportunities for job-seekers to get employed, it is expedient to delegate periodically representatives of the Office to act as observers in job competitions, making the information about observed violations public.
5. It should be noted that the work of the Interdepartmental Commission on Equal Opportunities for Women and Men consisting of representatives delegated by ministries is not always effective and sufficient. Therefore, it should be suggested to strengthen the Commission by establishing a secretariat which would coordinate Commission's activity.
6. It is necessary to ensure that national and municipal governmental institutions prepare programmes for ensuring equal opportunities, and support, according to the established

procedure, programmes and projects for promotion of equal opportunities in Lithuania implemented by civic organisations.

7. Since a considerable lack of equal opportunities specialists is observed in Lithuania, it is necessary to encourage institutions of higher education to develop respective training programmes and train required specialists. This would help avoid lack of professional employees in state institutions implementing equality policy.
8. It is necessary to give appropriate attention to increasing the role of men in addressing problems of equal opportunities. Taking into account the fact that unequal sharing of responsibilities in the family created preconditions for discrimination on the basis of sex in the labour market, it is necessary to entrench favourable conditions for balancing career and family in laws.
9. Article 2 Paragraph 1 of the Law on Equal Treatment defines equal treatment as “implementation of the human rights, which are laid down in international documents on human and citizens’ rights and in the laws of the Republic of Lithuania, regardless of the age, sexual orientation, disability, racial or ethnic origin, religion, beliefs and other grounds established in the international agreements or laws of the Republic of Lithuania”. Since the Law on Equal Treatment prohibits discrimination only on grounds of age, sexual orientation, disability, race, ethnic origin, religion or beliefs, amending Article 2 Paragraph 1 of the Law on Equal Treatment should be recommended, by providing an exhaustive list of discrimination grounds.
10. Taking into account into the definition of direct discrimination provided in Article 2 Paragraph 3 of the Law on Equal Treatment, treatment of a person would not be considered as constituting discrimination if less favourable treatment was applied to such person because of alleged (imaginable) belonging to a certain group of persons (e.g.: an employer discriminates a heterosexual employee because s/he believes that s/he is homosexual). It is therefore expedient to expand the definition of direct discrimination, amending respectively Article 2 Paragraph 3 of the Law on Equal Treatment. It should be noted that, according to definitions of direct discrimination in EU Directives 2000/43/EC and 2000/78/EC which are implemented by the Law on Equal Treatment, such actions against a person would be considered as constituting direct discrimination on one of the grounds specified in the directives.

11. In order to protect adequately interests not only of the person submitting the complaint regarding discrimination, but also others giving testimony or otherwise participating in the complaint investigation, it is expedient to supplement the Law on Equal Opportunities of Women and Men and the Law on Equal Treatment with provisions prohibiting persecution of individuals giving testimony or otherwise participating in complaint investigation.
12. The Law on Equal Treatment, unlike the Law on Equal Opportunities of Women and Men, does not provide for placing the burden of proof in discrimination cases on the person complained against (in such case a defendant person or institution should prove that the principle of equal treatment was not violated). It should be noted that EU directives 2000/43/EC and 2000/78/EC, implemented by the Law on Equal Treatment, provide for placing the burden of proof on the defendant. Supplementing the Law on Equal Treatment and the Civil Process Code with appropriate provisions should be recommended.
13. Taking into account that Article 24¹ of the Law on Equal Opportunities of Women and Men provides for an opportunity for a person who suffered discrimination to demand pecuniary and non-pecuniary damages according to the procedure established by the Civil Code and in order to implement EU directives 2000/43/EC and 2000/78/EC, it is also expedient to supplement the Law on Equal Treatment with an equivalent provision.
14. In order to implement EU directives 2000/43/EC and 2000/78/EC, it is expedient to supplement Article 56 Paragraph 1 of the Civil Process Code with a point allowing associations to represent claimants in discrimination cases.
15. In order to achieve integration of the disabled into the labour market, it is expedient to propose to the Government to prepare and approve a procedure for compensation of costs related to adaptation of workplaces for the disabled, according to which an employer who adapted a workplace for a disabled employee, would be compensated such costs (or their part).
16. To propose to the Government to set up an interdepartmental working group for developing a new programme of Roma integration into the society of Lithuania, which would be in line with the recommendations of the European Commission against Racism and Intolerance and the Advisory Committee of the Council of Europe.