

MONITORING OF

LGBT

RIGHTS VIOLATIONS IN LITHUANIA

**“ULTRA VIRES LT”
PROJECT REPORT**

ILGA
EUROPE 

 **LGL**

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PROJECT REPORT**

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Introduction

There is a widespread expression that human rights constitute the underlying principle of modern civilisation. We can really only say this phrase sincerely if we can openly acknowledge that we live in a country where we feel safe, can live with dignity and are sure of our future irrespective of our differences – I am who I am, I am unique. In a country where human rights “work”. In a democratic country where caring about human rights has long been a priority of domestic politics.

Even though there has been a growing awareness of human rights in Lithuania, mostly due to the efforts of non-governmental organisations, the general situation is still not promising. According to Henrikas Mickevičius¹, the director of the Human Rights Monitoring Institute, the notion of “human rights” works only in the West, whereas the people of Lithuania are still extremely tolerant to violations of their privacy. They sometimes like to say that “the government know what they are doing” thus giving the government carte blanche. There are many organisations operating in the Republic of Lithuania

whose mission is to protect the rights of all citizens in real terms. These include the Ombudsmen’s Offices (i.e., the Parliament’s controllers), The Children’s Rights Ombudsman’s Institution, and the Office of Equal Opportunities Ombudsman. In 1999, special administrative courts were founded for people to make claims against illegal actions of public bodies (officials) that violate human rights and freedoms. So in this respect we could say that the premises for proper protection of human rights do exist in Lithuania and so do the mechanisms for implementation of these rights.

Unfortunately, the real situation is quite the opposite to what might be inferred from above. The independent non-governmental organisation Amnesty International states that racial attacks, violence against women, and violation of the rights of lesbian, gay, bisexual and transgender (LGBT) people have not ceased in Lithuania. When presenting its annual report on the “State of the World’s Human Rights”², Amnesty International, one of the world’s largest independent movements for protection of human

¹ An article in the newspaper *Sekundė* at <http://www.sekunde.lt/content.php?p=read&tid=44606>.

² <http://thereport.amnesty.org/en/regions/europe-central-asia/lithuania>.

rights, could not but remark on the inability of the country's government to ensure LGBT human rights and to condemn actions that restricted and violated LGBT rights in the areas of the freedom of self-expression, peaceful meetings, and associations. Neither did it go unnoticed in the Amnesty International report that top municipal officials in Lithuania made degrading comments with respect to homosexuals. For the second time in a row in August 2008 the truck *For Diversity. Against Discrimination*, an initiative of the European Union (EU), was refused permission to enter Lithuania, following a decision of Vilnius municipal government. The data presented for analysis in the section on the situation in Lithuania relating to homophobia and discrimination on grounds of sexual orientation in the report of the European Union Agency for Fundamental Rights (FRA) "Homophobia and Discrimination on Grounds of Sexual Orientation and Gender Identity in the EU Member States"³, also attest to the unsatisfactory situation in the area of LGBT rights.

This present report is part of the project implemented by the Lithuanian Gay League with *the support of ILGA-Europe within its Human Rights Violations Documentation Fund*. During the project, violations of the rights of LGBT people by actions/inaction of public bodies were

³ http://fra.europa.eu/fraWebsite/attachments/FRA-hdgso-part2-NR_LT.pdf.

monitored and documented. The main subject of this research is monitoring of the developments (progress or regress) in politics and the regulation of state administrative sector with respect to LGBT inclusion (recognition of the rights) and of the actions of local government bodies. The report includes material collected during the project, as well as material available from previous studies and equal opportunity surveys and analyses and is aimed at presenting the legal situation in this area. The major focus of the report is the analysis of the legal practice that is developing in this area. The practice of the Lithuanian Gay League, the largest non-governmental organisation in Lithuania defending LGBT rights, for defending the rights violated by the actions of public bodies at judicial and pre-trial institution is provided. The main issue discussed in the report is the search for legitimate methods for defending LGBT rights and the modelling of a strategy for recognising LGBT rights in Lithuania.

CHAPTER I.

Legal aspects of the recognition of LGBT rights

1.1 THE DUTY OF STATE AUTHORITIES TO ENSURE LGBT RIGHTS

Basic human rights in the Republic of Lithuania have been included in the preamble and Chapters II, III, IV, and XIII of the Constitution. Article 29 of the Constitution proclaims that “[A]ll people shall be equal before the law, the court, and other State institutions and officers. A person may not have his rights restricted in any way, or be granted any privileges, on the basis of his or her sex, race, nationality, language, origin, social status, religion, convictions, or opinions.”

Thus, the Constitution stipulates the equality of all persons before the law, the courts, and other State institutions and officials. It is evident that the provisions of the Constitution which guarantee human rights, form the primary basis that implies the duty of public authorities to respect, protect, and implement the rights of LGBT, one of the most vulnerable groups of society. Even though Article 29 of the Constitution presents a finite list of the grounds on which discrimination

is not allowed and “sexual orientation” is not included in it, following the principle of the equality of all people embedded in the Constitution, as well as the principles of integrity of the Constitution and its direct application, one may state that this constitutional tenet, as one of the most important elements of the protection of human rights, is also applied with respect to homosexual people. This is acknowledged by various authors exploring the issue defending the rights of homosexual persons.⁴

In its practice, the Constitutional Court of the Republic of Lithuania has stated that the issues of the application of the law that have not been solved by the legislator are matter of court practice (Constitutional Court ruling of 9 July 1998 and decision of 20 November

⁴ See, for instance, Edita Žiobienė, *Report on Measures to Combat Discrimination Directives 2000/43/EC and 2000/78/EC*, 8 January 2007, http://ec.europa.eu/employment_social/fundamental_rights/public/pubst_en.htm.

More about legal regulation in Lithuania which features prohibition of discrimination read in the article by J. Samuolytė “Rights of Homosexual Persons and Realities in Lithuania” (10/11/2007).

2006). The issues of the application of the law that have not been solved by the legislator can be resolved by the courts in disputes regarding the application of certain legal acts (or parts thereof) (Constitutional Court decision of 20 November 2006). The Courts have, without doubt, the authority from the Constitution to apply *inter alia* general legal principles and legal acts of superior power, first of all, the Constitution which has the highest power (Constitutional Court decision of 8 August 2006). It should be noted that in its decision of 8 August 2006, the Constitutional Court established that the general legal principle *ubi ius, ibi remedium*, provision of Article 6 Paragraph 1 of the Constitution, shall be a directly applicable act, the constitutional principle of responsible governance, the provision Article 5 Paragraph 3 of the Constitution, that state institutions shall serve the people, the provision of Article 18 of the Constitution that human rights and freedoms shall be innate, as well as the right of the person who thinks that his rights or freedoms have been violated to apply to court, which is consolidated in the Constitution, imply not only the fact that in such cases the rights, freedoms, legitimate interests and legitimate expectations must and may be defended by means of interpretation of the Constitution and direct application of its provisions, but also that such protection must be guaranteed by courts.

This official constitutional tenet is used in the practice of the Supreme Administrative Court of Lithuania in cases when it is established that certain relations have not been regulated by the legislator (ruling of 18 January 2007 by the extended chamber of judges in administrative case No. A10-01/2007). It should be noted that the Supreme Court of Lithuania has recognised in its practice that a claim based directly on the Constitution can be satisfied provided the relationships of the dispute have not been elaborated by other regulatory acts—the laws and sub statutory legal acts—that do not contravene the Constitution (ruling of 3 May 1999 in civil case No. 3K-3-108).

It should also be noted that the duties of the state and municipal authorities in the area of equal treatment are stipulated in the Law on Equal Treatment⁵. Article 5 of the Law on Equal Treatment prescribes the duty of the state and municipal authorities and agencies to implement equal treatment. The special area of legal relations regulated by this article should be considered, as the violation of this article does not mean the violation of the rights of a particular person whose rights are discriminated against (as for instance, in the case of Article 7 of the same law that prohibits discrimination in recruit-

⁵ Law No. IX-1826 of 18 November 2003 (the version of the law of the Republic of Lithuania of 17 June 2008 No. X-1602 (valid from 5 July 2008) (*Official Gazette*, 2008, No. 76-2998)).

ment), but failure of state and municipal authorities to fulfil or to fulfil properly duties prescribed to them and observe prohibitions. The duty of state and municipal authorities to implement equal treatment includes: the duty to ensure that rights and opportunities would be contained in all legal acts on all grounds stipulated in the law (Law on Equal Treatment Article 5 Paragraph 1); the duty to draft, approve, and carry out the programmes and measures designated for ensuring equal treatment (Law on Equal Treatment Article 5 Paragraph 2); the duty to provide assistance to the programmes of religious communities, societies, centres, public agencies, associations, and charity and support foundations which help to implement equal treatment of people (Law on Equal Treatment Article 5 Paragraph 3). Thus, in essence, the said regulation obliges state and municipal authorities to encourage implementation of equal treatment on their own initiative and not only to prepare, approve, and carry out the relevant programmes, but also support the programmes of non-governmental organisations, *inter alia* associations, that help to implement equal treatment on the grounds stipulated in the law. The analysis of the content of the said duty leads us to conclude that failure to perform this duty (i.e., violation of Article 5 of the Law on Equal Treatment) occurs when there is a violation of the rights and interests of the entire discriminated group (*inter alia*

homosexual people), but not of a particular natural person (a single representative of the discriminated group stipulated in the law).

1.2 VIOLATIONS OF THE RIGHTS OF LGBT COMMITTED BY ACTIONS OF PUBLIC AUTHORITIES

Violations of LGBT rights are of different kinds. We could start listing them from the most serious violations that fall under the jurisdiction of criminal law, such as discrimination on the grounds of sexual orientation, trying to prevent equal participation in political, economic, social, cultural, labour or other areas or restrict the rights of the group or the rights and freedoms of the member of the group (Article 169 of the Criminal Code), incitement against any person due to his sexual violation (Article 170 of the Criminal Code), etc. The list would further include violations in the area of employment (Article 2 Paragraph 1 Subparagraph 4 and Article 129 Paragraph 3 of the Labour Code), education and science, violations of equal rights by state and municipal authorities, prohibition of public statements that urge hatred of, ridicule, express contempt, incite discrimination, violence or physical violence against a group of persons or a person belonging thereto on grounds of sexual orientation (Article 19 Paragraph 1 Subparagraph 3 of the Law on Providing Information to Public)

In view of the party, with respect to which a specific violation has been committed, violations of LGBT rights could be divided into violations against specific persons (for instance, violations committed towards a person upon recruitment) and violations towards groups of people with certain characteristics, homosexual persons *per se* (for instance, incitement of discrimination against homosexual persons, failure to fulfil the duty to implement the programmes that encourage development of equal treatment, etc.). The violations listed last are mostly committed by the action/inaction of public authorities.

We have mentioned that the main focus in this report will be the examination of human rights violations against LGBT caused by the action/inaction of public authorities. Therefore, in our case, we can divide violations according to the nature of action:

- a. action of public authorities (officials);
- b. inaction of (omission by) public authorities (officials).

Violations caused by actions of public authorities (officials) could be explained as failure to carry out the duties arising from legal acts adopted by the authorities or from the Constitution or documents on international human rights. These duties include:

- a) the duty to respect, which is reflected in restraint from any actions that

would violate the rights of individuals or groups thereof or restrict their freedom (an example of such violations would be prohibition of a public event (parade) by LGBT persons or refusal to issue a permit for a public event thus violating the freedom to hold meetings, etc.);

- b) the duty to protect, which includes measures required to prevent individuals or groups thereof from violating the rights of other individuals or groups, including preventive measures protecting against illegitimate restriction of freedoms (an example of such violations would be inaction of the officials authorised to fulfil the functions of a public governing authority when a group of homophobic individuals expresses hatred, threat or even use physical violence against LGBT persons).
- c) the duty to implement, which means taking all necessary measures that would ensure the opportunity for each person to exercise the rights guaranteed to him/her, as this would be impossible to achieve only by his/her own unaided efforts (an example of such violations would be adoption of the law that would contravene the rights and principles set out in the Constitution or declining to adopt the law that should be adopted (transposed) following the implementation of EU policies).

1.3 IMPLEMENTATION OF LGBT RIGHTS AND PROVISIONS THEREOF IN SPECIFIC AREAS OF GOVERNING

As has been mentioned, public authorities face issues related to implementation of human rights *inter alia* the rights of LGBT persons. In this section of the report we will briefly review several specific areas of public administration in Lithuania where violations against the rights of LGBT are most frequently observed:

- *Legislation – legislative initiatives that contravene the Constitution of the Republic of Lithuania and international human rights covenants;*
- *Executive authorities – national programmes and priorities and the Government Programme;*
- *Actions of local governing bodies; legal regulative acts adopted by municipal authorities;*
- *Public speaking.*

Legislation – legislative initiatives that contravene the Constitution of the Republic of Lithuania and international human rights covenants

In the Republic of Lithuania, citizens are guaranteed the right to initiate legislation and this initiative is usually implemented via the representatives of the Seimas (the Parliament), the legislative body democratically elected by the citizens of the

Republic of Lithuania.⁶ Within the context of our subject it should be stated that violations in legislation caused by actions of public authorities mean, firstly, adoption of unconstitutional⁷ laws and legal acts. It should be noted that most often these violations are particularly harmful to the target group under investigation (LGBT persons). Such a conclusion is primarily made not only due to the implications of illegitimacy caused by such actions, but also due to the rather difficult elimination of such violations, i.e., the procedure for elimination of the illegal act from the legal system. The legal system of Lithuania does not foresee any *ex ante* constitutional control,⁸ therefore the only way to eliminate the law that contravenes human rights principles embedded in the Constitution is the control of the constitutionality of the law at the Constitutional Court. In other words, the opportunity to revoke the legal act adopted by legislative bodies that contravenes the Constitution occurs only when this act

⁶ It should be noted that the legislative initiative may be exercised by the citizens directly, on the basis of the provisions of the Law on Legislative Initiative of the Citizens; however, this report will not enlarge on this right of legislative initiative.

⁷ That is the laws that violate the norms and principles entrenched in the Constitution.

⁸ A example of such control could be legal regulation existing in Poland, whereby, prior to signing the law adopted by the Parliament, the President may apply to a body of constitutional justice (in Lithuania – the Constitutional Court) requesting to verify constitutionality of the proposed law.

is implemented in practice, thus causing damage to the group of individuals to whom this law applies. The procedure of the repeal of a legal act is complicated. It can be demonstrated by providing the following example:

Step 1. The Seimas adopts and the President signs a legal act X which violates the rights and legal interests of LGBT and contravenes the Constitution.

Step 2. When the law comes into effect, the supervisory institution makes a decision which has direct legal consequences for a certain group of people (for instance, association Y representing the rights of LGBT).

Step 3. Y appeals against the decision to the respective legal body.

Step 4. In the course of examination of Y's appeal, Y submits a request to the court to appeal to the Constitutional Court regarding compliance of the law X with the Constitution.

Step 5. Only after the investigation of the appeal, can the constitutionality of law X be verified.

Step 6. If the Constitutional Court does not uphold that the law contravenes the Constitution and all means of legal defence have been used, there will still be an opportunity to appeal to the European Court of Human Rights.

Recently, Lithuania has seen quite a few legislative initiatives that clearly violate the rights and legal interests of LGBT persons. One of the most widely discussed

initiatives over the past year has been the amendment to the Law on Protection of Minors against Detrimental Effect of Public Information which has been debated and finally adopted by the Parliament⁹. Following the provisions of the law that has been in effect for some time, matters such as the display of physical and psychological violence or vandalism, the body of a dead or brutally assaulted person, and information that may cause fear or horror, incite self-harm or suicide are the focus of the law. The amendments to the law propose adding homosexuality to the list above. In the explanatory letter, the authors of the proposed amendments specified that “advocating of non-traditional sexual orientation and displaying or publicising of information that gives positive assessment of homosexual relationships may have a negative impact on the physical, mental, and, primarily, moral development of minors.”

Given the human rights aspect of the provisions of the law, it should be emphasised that it would be difficult to identify the information which promotes homosexual relations, because the criterion is absolutely judgemental and subjective and includes nearly all the information about people of homosexual orientation

⁹ At the time when the report is being prepared, the procedure for the adoption of the law is in progress: the Seimas has agreed to adopt this law and it is planned to submit the draft of it to the President for signing.

and their associations that carry out legitimate educational activity. According to the provisions of Article 4 Part 2 of the Law on Protection of Minors against Detrimental Effect of Public Information, “dissemination of information which falls under the items of Article 4 Paragraph 1 is prohibited or restricted”. Thus the consequences of this draft project could be restriction or prohibition of publication and dissemination of any information about homosexual relations or the major part thereof. Such provision is incompatible with Articles 10 and 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms that determine the right of each individual to freedom of expression that “shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers” and ensure the possibility to exercise the rights and freedoms recognised in this Convention without any discrimination.

According to Article 6 of the European Union, the European Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law which are common to member states and as general principles of Community law recognises respect to fundamental rights, as guaranteed by the European Convention for the Protection of Hu-

man Rights and Fundamental Freedoms, and the constitutional traditions common to Member States. Article 13 of the Amsterdam Treaty sets out the concept of equal opportunities which allows taking action against discrimination on the grounds of sexual orientation not only in the area of employment, but also in education and health care. Analogous rights regarding the guarantee of the freedom and prohibition of discrimination on the grounds of sexual orientation were stipulated in Articles 11 and 21 of the Charter of Fundamental Rights of the European Union. The attitude of the European Union towards discrimination is also reflected in Council Directive 2000/78/EC of 27 November 2000. Council Directive 2000/78/EC establishes a general framework for equal treatment in employment and occupation, the purpose of which, as it is stated in Article 1 of the directive, is to lay down a general framework for combating discrimination on the grounds of religion or belief, disability, age or sexual orientation as regards employment and occupation, with a view to putting into effect in the Member States the principle of equal treatment. Thus, from the human rights documents listed above, it becomes evident that Article 4 Paragraph 13 of the draft law is incompatible not only with EU law and equal opportunity policies, but also the provisions of the *2009–2011 National Anti-Discrimination Programme* prepared by the Government of the Re-

public of Lithuania, as it will legalise discrimination against homosexuals and their associations.

Even though, organisations protecting human rights both in Lithuania and in the world emphasised the anti-constitutional and contradictory nature of the amendments during the debates regarding the adoption of these amendments, this did not prevent the Parliament of Lithuania from adopting them. According to Amnesty International, this law encourages homophobia and violates human rights. In the opinion of Amnesty International, amendments to the law on protection against negative information institutionalise homophobia and violate the right to self-expression and freedom from discrimination. Nicola Duckworth, Europe and Central Asian Programme Director at Amnesty International noted that “by adopting this law, the Seimas strengthened discrimination against sexual orientation”. Amendments, according to Amnesty International, compare homosexuality to problems such as physical and psychological violence, the display of the body of a dead or brutally assaulted person, and the information that causes horror, incites self-harm or suicide. “The new law contributes to the atmosphere of increasing intimidation in Lithuania and growing discrimination against lesbians, gays, bisexuals and transgender people. Humiliating decisions have been adopted in recent years by local government

authorities”¹⁰. Other international organisations (ILGA-Europe) and members of the European Parliament have also expressed concern regarding adoption of the said law.

Executive authorities (National programmes and priorities and the Government Programme)

In terms of monitoring violations of LGBT rights, activities (inactivity) of executive authorities are none the less important. Executive authorities are the competent bodies for the preparation of various programmes and guidelines that describe in detail decisions adopted by legislative authorities and to ensure their implementation. It is very important at this stage to acknowledge their responsibility for ensuring LGBT rights. Incorporation of all the provisions which deal with the grounds of discrimination (including discrimination on the grounds of sexual orientation) into various national programmes, guidelines, and even the Government Programme, as seen from the examples provided below, is particularly important in Lithuania, because it is at this stage that the executive authorities tend not to “notice” or deliberately ignore the duty of ensuring equal rights of citizens (and thus of LGBT persons).

To illustrate the statement above we

¹⁰ <http://www.delfi.lt/archive/article.php?id=22711625>.

can consider the appeal of the non-governmental organisation, the Lithuanian Gay League, on 17 September 2006, to the Ministry of Social Affairs and Labour of the Republic of Lithuania which aims to draw the attention of the Ministry to insufficient adoption of the principle of non-discrimination on the grounds of sex, race, nationality, religion or belief, disability, age or sexual orientation in the project for the *2007–2013 Human Resource Development Action Programme*, priority 2.2.1 “Quality Employment and Social Inclusion”, section on “Reducing Discrimination and Prevention of Social Problems”. The said section failed to describe and thus to ensure measures that would help to prevent all grounds of discrimination. The description of the project foresees investment in prevention measures which would “curb problems such as addiction, crime, discrimination, domestic violence, human trafficking, and others.”

In the appeal, the Lithuanian Gay League pointed out that failure to include all grounds of discrimination in the programme leads to further restrictions as to how non-discrimination principles are treated and, subsequently, erroneous application of these principles, for example, in the call for tenders No. BPD 2004-ESF-2.3.0-04 in 2006 of the Ministry of Social Affairs and Labour of the Republic of Lithuania and the Support Foundation European Social Fund Agency

(ESFA). The call for tenders specified a conclusive list of areas supported by BPD 2.3 measures which limited the perception of equal treatment to that of men and women and eliminated other target groups which experience social exclusion from the list of supported measures. The measures did not include equal treatment on the grounds of age, sexual orientation, race, religion or beliefs thus violating the rights of particular social groups.

It was further emphasised that the *2007–2013 Human Resource Development Action Programme* included priorities that would subsequently be the basis for promoting projects of various institutions (including NGOs), therefore precise identification of measures that would comply with the EU regulations was imperative in the later stage of their implementation. Clause 22 of the preamble to Council Regulation (EC) No. 1083/2006 notes that “[T]he activities of the Funds and the operations which they help to finance should be consistent with other Community policies and comply with Community legislation” and Clause 30 highlights the goal of combating discrimination based on sex, racial or ethnic origin, religion or belief, age or sexual orientation at all stages of implementation of the Funds.

Non-discrimination on the basis of sexual orientation was also “forgotten” in developing the Government Programme, one of the key documents laying down

priorities for executive authorities. Provisions of the draft programme of the 15th government do not reflect in detail the guidelines of the non-discrimination policy. Section VII Clause 68 of the draft programme states that “[W]e will support programmes that promote reduction of social exclusion and discrimination on the grounds of sex, age, social or ethnic origin, religion or belief, age or sexual orientation”. Then, Section XIX Clause 689 declares that “[W]e will further implement an equal treatment policy, seeking to ensure that no person would be discriminated on the basis of his/her age, sex, ethnic origin or the condition of his health”. Apparently, in order to ensure integration of the provisions of the European communiqué and the Law on Equal Treatment of the Republic of Lithuania into the Programme, it would have been more appropriate to supplement the said clauses with all the grounds of non-discrimination stipulated in the Law on Equal Treatment, including that of sexual orientation. Elimination of this ground from the Government Programme should be considered a failure to fulfil the duty (of ensuring the rights of LGBT) mentioned above.

Actions of local governing bodies; legal regulative acts adopted by municipal authorities

The duty of municipal authorities/agencies is to implement equal treatment in

line with Article 5 the Law on Equal Treatment. Paragraph 1 Subparagraph 1 of this article stipulates that, within the limits of their competence, municipal authorities/agencies must **(1)** ensure that in all legal acts, drafted and passed by them, equal rights and treatment would be laid down without regard to sex, race, nationality, language, origin, social position, belief or convictions, age, sexual orientation, disability, ethnic origin, and religion. According to Article 5 Paragraph 1 Subparagraph 2, municipal authorities/agencies must **(2)** draft and implement the programmes and measures, designated for ensuring equal treatment regardless of sex, race, language, origin, social position, belief, convictions or views, age, sexual orientation, disability, ethnic origin, and religion. In addition, Article 5 Paragraph 1 Subparagraph 3 of the law stipulates that municipal authorities/agencies must, pursuant to the procedures prescribed in the law, **(3)** provide assistance to the programmes of religious communities, associations and centres, other non-government organisations, public agencies and charity and sponsorship foundations, which assist in the implementation of equal treatment of persons without regard to their sex, race, language, origin, social position, belief, convictions or views, age, sexual orientation, disability, ethnic origin, and religion.

Thus the Law on Equal Treatment, allocates the area of state and municipal

governing not only to one of the areas (together with protection of the rights of employment, education and science, and consumer rights) where the principle of equal treatment must be observed, but also establishes a duty of state and municipal bodies/agencies to implement equal treatment, i.e., to take action in supporting, promoting, and campaigning for implementation of equal treatment via specific programmes and measures. Violations committed due to failure to fulfil this duty will be described in detail in the practical section of this report (Chapter II), where a case investigated by the court is presented. The non-governmental organisation, the Lithuanian Gay League, relied on the provisions of the Law on Equal Treatment specified above in pointing out to Vilnius City Municipality Administration (*Vilniaus miesto savivaldybės administracija*) that it did not fulfil the duty of implementing equal treatment of persons without regard to their sex, race, language, origin, social position, belief, convictions or views, age, sexual orientation, disability, ethnic origin, and religion by refusing to issue a permit to organise public events and discriminated against certain social groups stipulated in the Law on Equal Treatment.

In addition, as has been mentioned earlier, violations of LGBT rights may be committed by municipal authorities acting as a legislator (on the municipal level). An example of such violation will be

the said case investigated by the court,¹¹ whereby the non-governmental organisation, the Lithuanian Gay League, asked Vilnius City Municipality Council (*Vilniaus miesto savivaldybės taryba*) to verify whether – by adopting decision No. 1-582 of 16 July 2008 which approved the Rules for Clearing and Cleaning, Clause 35.3.5 whereof established that “a decision can be made to refuse a permit for events during which, in the opinion of the police or the commission, public disturbance may arise or events, given the nature of the event, could cause a negative reaction from the public or opposition or some objective findings or other information have been obtained (written information is received about the events already organised and their negative consequences; public opinion polls have been carried out regarding the planned events, etc.) regarding possible violations. Such events may be organised only in enclosed spaces, so that safety of both the participants and the spectators could be ensured” – they duly implemented the duties prescribed to municipal authorities in the Law on Equal Treatment and observed prohibitions stipulated in this law (Clause 10 of the law).

The request, in essence, was based on the fact that Vilnius City Municipality Council by trying to adopt the practice which contravenes the laws on Meet-

¹¹ The case is described in more detail in Chapter II of the report.

ings and Equal Treatment formulated by Vilnius City Municipality Administration and allows discrimination against certain social groups by preventing them from exercising their right to meetings and moving their events to enclosed spaces, adopted decision No. 1-582 of 16 July 2008 which approved provisions of Clause 35.3.5 of the Rules for Clearing and Cleaning. It was an enquiry into the compliance of the Rules to the provisions of the Law on Assemblies and the Law on Equal Treatment, because the Rules sought to discriminate against certain social groups.

Public speaking

Even though representatives of the Lithuanian legislative authorities have heated arguments over the protection of minors against information available in the public domain which, supposedly, “campaigns” for homosexual relations, they have not considered what damage they cause to LGBT persons whom they ridicule, condemn, or provide negative information about in the media. Negative information often comes from the top officials of state and municipal governments. As mentioned earlier, in the case of the refusal by municipal government to issue a permit for a public event, a part of which involved participation of homosexual persons, the Mayor of Vilnius Juozas Imbrasas, in his interview with channel TV3 speaking about the arrival

of the Truck of Tolerance, asserted that as long as he was the mayor of Vilnius, no advertising for sexual minorities in Vilnius would be allowed. Thus the highest municipal official, who has authority over other municipal institutions, including the Municipality Administration, expressed his preconceived negative opinion with respect to the issue of a permit to an event that promotes development of tolerance and ideas of equal treatment. Such actions can be treated as a violation of the duty stipulated in Article 5 of the Law on Equal Treatment, to provide assistance to initiatives of public agencies and associations aimed at helping the implementation of equal treatment for people (Article 5, Paragraph 1 Subparagraphs 1-3). It should be noted that in a democratic country which respects human rights, actions of state and municipal officials should contribute to the dissemination of tolerance rather than dissemination of discrimination in society.

CHAPTER II. Search for Methods of Defending LGBT Rights: Legal Practice

2.1 ENSURING THE RIGHT TO PEACEFUL MEETINGS

On 17 October 2007, the Lithuanian Gay League, a public organisation, petitioned Vilnius City Local Court regarding violations of the Law on Assemblies and asked it to set aside decision No. A51-19649-(3.24-PD-4) of Vilnius City Municipality Administration of 9 October 2007 “Regarding the permit to organise a public campaign” and to issue a certificate to the petitioner regarding the approved place, time, and form of the meeting. Let us analyse the proceedings of this case in the Court of First Instance and the Court of Appeal which will show the arguments used by the Lithuanian Gay League in order to defend the rights that have been violated and the position of the Court of First Instance and the Court of Appeal taken in this matter.

Factual circumstances

On 4 October 2007, the Lithuanian Gay League (the plaintiff in the case) submit-

ted a notification to Vilnius City Municipality Administration (the defendant in the case) “Regarding a permit to organise a public campaign”. Pursuant to the provisions of Article 9 of the Law on Assemblies, the plaintiff notified the chief officer of the defendant’s executive body about the organisation of a public campaign called *We Are for All Colours of Life* to be held on 25 October 2007, at 18:00, in Rotušės (Town Hall) Square. The notification specified the form and content of the meeting, date, start and end time of the meeting, location, planned number of participants, and requirements to the police regarding maintenance of public order. The notification was signed by two people designated by the organiser of the meeting, as prescribed in the Law on Assemblies.

On 9 October 2007, the plaintiff received a letter No. A-51-(12.26-VTD-5)-19463 from the defendant dated 5 October 2007 “Regarding the permit to organise a public campaign”, stating that

the plaintiff's notification of 4 October 2007 was considered on 5 October 2007. It was explained that construction works were in progress in Rotušės Square and the contractor, UAB Vilniaus Kapitalinė Statyba, following Article 15 Paragraph 5 Subparagraph 5 of the Law on Construction, refused to agree to the organisation of the said meeting on the site. The defendant also informed the plaintiff that, pursuant to Article 10 Paragraph 3 of the Law on Assemblies, a suggestion was made to change the place and time of the event. It was noted that the plaintiff would be advised about the location of a sitting of the Municipality when this issue would be discussed and that he would be informed of this meeting by telephone. On 9 October 2007, the defendant's representative informed the plaintiff by telephone about the sitting scheduled for 15:30 on 9 October 2007 regarding organisation of the public campaign *We Are for All Colours of Life*. As the plaintiff wished to be involved in these discussions the plaintiff's representatives participated in the sitting organised by the defendant. During the sitting, the defendant's representatives, stated in a very authoritarian manner that the meeting could not be organised in Rotušės Square but they did not propose any alternative locations for the meeting. It was suggested that the meeting be organised in an enclosed space (for instance, in Siemens Arena). The plaintiff's representatives were also

told that it would not be possible to organise any similar events in open public spaces in Vilnius. After the sitting, the defendant's representatives did not make any decisions regarding the issue of a certificate regarding the approved place, time, and form of the meeting as stipulated in Article 11 Paragraph 1 of the Law on Assemblies.

On 15 October 2007, the plaintiff received the defendant's decision No. A51-19649-(3.24-PD-4) of 9 October 2007 "Regarding the permit to organise a public campaign" which refused the issue of a certificate regarding the approved place, time, and form of the meeting.

In disagreement with this decision, on 19 October 2007 the plaintiff lodged an appeal with the First Vilnius City Local Court requiring it to set aside the decision as unfounded and illegitimate, one that violates the constitutional right to assemble for unarmed peaceful meetings, the constitutional principle of equality (non-discrimination), and the rights and freedoms stipulated in the international documents on human rights, and of being in non-compliance with the form of the decision prescribed in the Law on Assemblies and adopted by breaching the requirements of the Law on Public Administration.

The plaintiff specified that, as seen from the contested decision lodged, the defendant's refusal to issue the certificate regarding the approved place, time, and

form of the meeting was based on the following grounds:

1. Construction works in progress in Rotušės Square;
2. The plaintiff's disagreement to the organisation of the meeting in an enclosed space;
3. Information was received that an event which was organised on 25 May 2007 by public enterprise Pirmoji Kava, would be accompanied by protests and there were grounds to expect that, similarly, on 25 October 2007, there would be protests to the event organised by the plaintiff.

The plaintiff's reasoning:

Article 10 Paragraph 1 of the Law on Assemblies stipulates that if, in the course of the investigation of an application, circumstances appear whereby no meeting can be organised in the form specified in the application, in the location and at the time agreed in the application, then proposals regarding other forms, location, and time of the meeting should be made and discussed only with the organisers of the meeting.

As can be seen from letter No. A-51-(12.26-VTD-5)-19463 of 5 October 2007, when on 5 October 2007, the defendant considered the plaintiff's notification regarding the planned public campaign, the only argument was regarding the place of the event. It should be em-

phasised that the defendant did not have any comments regarding the form, time, security or other circumstances related to the organisation of the event. These actions by the defendant led the plaintiff to believe that in the further stages of consideration of the notification the only question at issue would be the place of the meeting. Therefore, at the sitting of 9 October 2007, the plaintiff had a justified reason for seeking clarification of the reasons for the refusal to hold the meeting in Rotušė Square in Vilnius and to obtain evidence that would substantiate such refusal. It should be noted that neither in the letter No. A-51-(12.26-VTD-5)-19463 of 5 October 2007, nor at the sitting of 9 October 2007 did the defendant provide to the plaintiff any evidence confirming the fact that there was a third interested party, UAB Vilniaus Kapitalinė Statyba, who refused to approve the event. No evidence was provided to the plaintiff confirming actual construction works in progress at the location planned for the meeting.

The Law on Construction (the version of 19 March 1996 Nr. I-1240, 2006-12-21) establishes essential requirements for all buildings (structures) constructed, reconstructed or repaired in the territory of the Republic of Lithuania; construction technical regulations, engineering survey, and engineering design of buildings; construction, reconstruction, and repair of new buildings; certification of buildings as

fit for use; use, maintenance, and demolition of buildings; supervision of all activities mentioned there before; and principles for the activities of the parties involved in construction, public administration entities, owner (users) of engineering systems and communications, and other legal entities and natural persons. The Law on Construction covers the issues of legal relations affecting construction; therefore these specific legal norms cannot be engaged in denying the constitutional right to assemble in unarmed peaceful meetings. This leads to the conclusion that the defendant's reference to Article 15 Paragraph 5 Subparagraph 5 cannot be the grounds *per se* for the refusal to approve a certain location for a meeting. The refusal to approve a specific location for a meeting must be related to specific factual circumstances based on evidence.

The plaintiff also draws attention to the fact that when his notification was discussed, representatives of the Lithuanian Gay League had no objection as to the change of the location. If the defendant had substantiated the circumstances of the impossibility of organising the meeting in Rotušės Square, they would have been prepared to discuss other proposed locations. As a result, the plaintiff willingly participated at the sitting of 9 October 2009 seeking to discuss these locations; however the defendant failed to propose a single possible alternative.

In his appeal against the defendant's

decision, the plaintiff specifies that at the sitting of 9 October 2009, the plaintiff's representatives were advised to organise their event in an enclosed space in order to ensure the safety of the participants, spectators, and others, however the plaintiff did not agree to change the original location to the one proposed because the defendant refused to issue a certificate regarding the approved place, time, and form of the meeting.

Article 6 Paragraph 1 of the Law on Assemblies stipulates that this law sets conditions for organising meetings and the order to be observed in *public places*, i.e. city and town streets, squares, parks, and other public places and general use buildings. Article 3 Paragraph 1 states that, pursuant to this law, organisers can hold various meetings: rallies, pickets, demonstrations, processions, various marches, and other unarmed peaceful meetings. Article 2 of the law lists the meetings, organisation whereof is not regulated by the Law on Assemblies. Paragraph 7 of this article stipulates that this law does not regulate meetings organised by private persons, meetings for entertainment purposes, festivities, and other meetings of a private nature that are not organised in *public places of general use*. To state the obvious, the Law on Assemblies regulates various meetings organised in public spaces and does not prescribe any requirements for a private type of event organised in enclosed spaces.

The plaintiff's notification submitted on 4 October 2007 about the organisation of the meeting shows that, in accordance with the procedure of applications, the plaintiff informed the defendant about the organisation of the public event regulated by the Law on Assemblies. It should be noted that no applications are required by law for any events organised in places other than public (clubs, theatres, concert halls, etc.), consequently there would be no need to ask the defendant to approve an event in such a location. Therefore, the defendant's proposal to organise the planned meeting exclusively in an enclosed space is incomprehensible. Such a proposal cannot be treated as an alternative proposal for the place of the meeting, as, given the Law on Assemblies of the Republic of Lithuania, enclosed spaces cannot be considered possible places for meetings. The requirements for the form of the meeting stipulated in the law do not apply to such spaces. Discussion of the arguments provided above leads to the conclusion that having unjustifiably rejected the plaintiff's originally chosen location for the meeting and failure to suggest and, even more, to discuss an alternative location, the defendant violated the requirements of Article 10 of the Law on Assemblies of the Republic of Lithuania and thus these illegitimate actions were unjustifiable grounds for refusal to issue a certificate regarding the approved place, time, and form of the meeting.

Regarding the guarantee of the right to assemble in unarmed peaceful meetings and the duty to ensure safety and public order during the meeting, the plaintiff specified the following:

In his appeal against the defendant's decision, the plaintiff emphasises that on 25 May 2007, public enterprise Pirmoji Kava had to organise a meeting similar in terms of content and nature to that of the plaintiff's intended meeting. It was explained that information was received with respect to the meeting organised by Pirmoji Kava that protests were to be organised, therefore there were grounds to expect that, similarly, on 25 October 2007, protests would be organised at the time of the event planned by the plaintiff. The defendant's argument is incomprehensible for several reasons. It should be noted that it was the first time that the plaintiff had appealed to the defendant regarding the approval of the meeting, therefore, the defendant had no grounds to draw conclusions about the form and content of the meetings organised by the plaintiff. The defendant's arguments regarding his doubt about security issues during the scheduled meeting by reference to a different meeting in terms of its content and form held by another entity (organiser) planned half a year ago, contradicts any legal logic. The defendant fails to specify if any information was received with regard to the meeting of 25 October 2007 organised by the plaintiff which would

give rise to doubt about the security of the meeting, neither did he provide any evidence that would give grounds to expect that protests would be organised with relation to the plaintiff's planned event. It should also be noted that in his notification about the organisation of the meeting, the plaintiff paid particular attention to the issues of safety during the meeting. The notification contained a request to the police regarding maintenance of public order during the event. During the sitting of 9 October 2007, the plaintiff drew the defendant's attention to the importance of solving this issue. The Law on Assemblies of the Republic of Lithuania establishes the duty of state authorities and police officials to create the opportunities to realise one's constitutional right to assemble in peaceful meetings. Pursuant to the provisions of Article 22 of the law, state authorities and police officials *must provide for organisational and other possibilities stipulated in the laws to organise legitimate meetings, to protect the rights and freedoms of organisers and participants of the meetings and other people, to ensure safety of the state and the community, and to maintain public order, health and morals of the public.* Officials who obstruct the organisation of legitimate meetings are accountable to the laws of the Republic of Lithuania. Consequently, the legislator emphasises the duty of state authorities and officials (hence, the defendant's duty) to provide opportunities for realisation of

the constitutional right to the organisation of peaceful meetings. It should thus be concluded that even if the defendant had any reasonable information based on evidence that there were doubts as to ensuring safety during the planned meeting, he should, first of all, have taken all possible measures to ensure public order and public safety, but not infringed the plaintiff's right to hold meetings. The defendant, being a state authority, makes decisions not only on the basis of legal regulations, but also on the basis of his duty to guarantee implementation of human rights and freedoms prescribed in the Constitution and the law.

The defendant's argument that the organisation of the plaintiff's planned event could violate the safety of the state and society, public order, people's health and morals, or other people's rights and freedoms is not based on any specific factual circumstances. The decision made on the basis of this argument that the plaintiff disputes is unlawful and should be set aside.

Regarding procedural violations and the unlawful delay in considering the plaintiff's notification, the LGL noted the following:

Article 10 Paragraph 1 of the Law on Assemblies establishes that notification about the organisation of a meeting must be considered no later than within *3 working days from the receipt thereof* and no later than 48 hours prior to the begin-

ning of the meeting. Article 11 Paragraph 1 establishes that having considered the notification of the organisation of a meeting, the chief officer of the executive body of the local government council or his authorised representative must make a decision as specified in this article of the law and give a reply *without delay*. According to the provisions of Article 12 Paragraph 1 of the Law on Assemblies, a decision to decline the issue of a certificate regarding the approved place, time, and form of the meeting must be provided *in writing* and must contain the reasons for the refusal. The reasons and circumstances must be specified if the form, place or time of the meeting are unacceptable or any other circumstances as prescribed in the law. The decision must be signed by the chief officer of the executive body of the local government council or his authorised representative and a copy of the decision issued to the organisers or their designated representatives.

The plaintiff submitted his notification of the intended meeting on 4 October 2007, thus 9 October 2007 was the last day for consideration of the said notification and for a decision to be made. Article 10 of the Law on Assemblies stipulates that if, in the course of consideration of the notice, circumstances come to light due to which it is impossible to arrange the meeting in the form, at the place or the time specified in the notice, proposals regarding different forms, places or the

time of the meeting may be submitted and considered only in the presence of the organizers of the meeting. It should be noted that the law does not foresee an extension of the time for consideration of the notification in case of other proposals regarding the form, location, and time of the meeting, which consequently means that in any case the chief officer of the executive body of the local government council must consider the notification regarding the approval of the place, time, and form of the meeting within 3 working days. As has been mentioned, at the sitting of 9 October 2007, the defendant did not announce a decision regarding the approval of the meeting and did not provide a written reply to the plaintiff with the reasons for refusal. The contested decision, whereby the defendant refused to issue a certificate regarding the approved place, time, and form of the meeting, was only received on 15 October 2007 and, as seen from the post stamp attached to the envelope, was posted on 12 October 2007, i.e., much later than the 3 working day term prescribed by the law. It should be noted that the form of the contested decision fails to comply with that specified in the Law on Assemblies of the Republic of Lithuania as it does not provide clear reasons for the refusal based on evidence; neither does it provide rationale arguments thereof. The refusal was based both on abstract statements, verification whereof is restricted, and illogical

premises. The defendant disregarded the principles applicable to public administration entities stipulated in the Law on Public Administration of the Republic of Lithuania and the requirements of the specific legal act. It should be noted that the defendant's contested decision is "Regarding the permit to organize a public campaign", thus misleading the plaintiff and emphasizing the issuance of a permit to arrange the meeting, whereas the Law on Assemblies of the Republic of Lithuania clearly provides for the procedure of the submission of the notice regarding arrangement of the meeting and that of receipt of a corresponding certificate, but never requiring permission for the implementation of the constitutional right to freedom for holding assemblies, i.e., the defendant does not issue permits for the organisation of meetings, he only approves the place, location, and form of the meeting. Due to non-compliance with the requirements of the content and form discussed above and procedural violations, the contested decision should be set aside as being unlawful and unjustified.

Regarding constitutional rights breached by the contested decision, the LGL noted the following:

The right of man and citizens to peaceful assemblies, without prejudice to the underlying values of society and other rights of people, is entrenched in international law. For example, Article 20 Paragraph 1

of the Universal Declaration of Human Rights declares that "[E]veryone has the right to freedom of peaceful assembly and association". According to Article 29 Paragraph 2 of the Declaration, in the exercise of his rights and freedoms (thus the freedom of assemblies), everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society. Similarly, the International Covenant on Civil and Political Rights in Article 21 states that "[T]he right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others."

Article 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms asserts that "1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests. 2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by

law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.”

By interpreting the provisions of Article 11 of the Convention in the case *Ezelin vs. France*, the European Court of Human Rights, considered that freedom to take part in a peaceful assembly, which is not like a demonstration which is prohibited, is of such importance that **it cannot be restricted in any way, so long as the person concerned does not himself commit any guilty act on such occasion.** The European Court of Human Rights in the case of Platform “Ärzte für das Leben” also concluded that the right to freely arrange peaceful assemblies **includes not only the negative duty of the State not to interfere with the arrangement of a peaceful assembly, but also its positive duty to ensure proper protection for the participants of such an assembly.**

It is noteworthy that on 3 May 2007, the European Court of Human Rights released its judgement in the case *Bączkowski and others vs Poland*. The judgement of the European Court of Human Rights noted that the Warsaw city government’s refusal to allow an event of

sexual minorities in Poland in 2005 was a violation of Article 11 (freedom of assembly and expression of convictions), Article 13 (right to effective remedy), and Article 14 (prohibition of discrimination) of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

The European Convention for the Protection of Human Rights and Fundamental Freedoms is an indivisible part of the national law of the European Council member states, including Lithuania, and prohibits discrimination on the grounds of sexual orientation or sexual identity. Article 14 of the Convention guarantees protection against any discrimination. Principles set out in the main judgements of the European Court of Human Rights must be observed by all countries that ratified the Convention. It must be noted that by virtue of the European Convention for the Protection of Human Rights and Fundamental Freedoms, Lithuanian state authorities must ensure freedom of assembly to all its citizens and prohibit any discrimination, including discrimination on the basis of sexual orientation. Vilnius City Municipality Administration should prevent any possible violations of public order, but not prohibit a meeting by reason of regarding the safety of the event. If the respondent had any reasonable doubts regarding the safety of the participants of the demonstration, this emphasises the defendant’s duty to be responsible for the

protection of the participants. It should be noted that any persons threatening to disrupt public order are liable in accordance with the procedure established in the Law on Assemblies of the Republic of Lithuania.

Article 36 of the Constitution of the Republic of Lithuania stipulates that “Citizens may not be prohibited or hindered from assembling in unarmed peaceful meetings. This right may not be subjected to any restrictions except those which are provided for by law and are necessary to protect the safety of the state or the community, public order, health or morals of the public, or the rights and freedoms of other people.”

The Constitutional Court of Lithuania, in its ruling of 7 January 2000, established that the chief officer of the executive body of the local government council or his authorised representative, when adopting a decision to refuse to issue a certificate on the coordinated place, time and form of the meeting, is bound by the basis of the restriction of freedom of assembly as indicated in Article 36 Part 2 of the Constitution: adopting such a decision, he **must present clear proof as to the particular way the meeting is likely to violate the security of the state or the community, public order, people’s health or morals, or the rights and freedoms of other persons.**

The grounds provided in the defendant’s (Vilnius City Municipality Ad-

ministration’s) decision No. A51-19649-(3.24-PD-4) of 9 October 2007 for the refusal to approve the place, time and form of the meeting do not comply with any of those specified in Article 11 Paragraph 1 Subparagraph 2 of the Law on Assemblies. The contested decision was based on unclear evidence and was approved by the incorrect application and interpretation of the provisions of the Law on Assemblies. The plaintiff’s notification was investigated by violating essential procedural norms stipulated in this law. The contested decision violates human rights and freedoms which are entrenched in international human rights documents, the constitutional right to assemble in unarmed peaceful meetings, and the constitutional principle of equality (non-discrimination) and contravenes the provisions of the Law on Equal Treatment of the Republic of Lithuania and the Law on Public Administration of the Republic of Lithuania. On the basis of the plea indicated above, the decision in dispute should be set aside as unjustified and it should be ruled out to issue a certificate to the plaintiff regarding the approved place, time, and form of the meeting by the defendant.

Conclusions by the Court of First Instance (the ruling of the Court of First Instance is attached as an appendix herein):

1. The minutes of the sitting provided to the court show that the notification of

the organisation of the meeting by the Lithuanian Gay League was considered at the sitting of 9 October 2007 of the Safe City Department (Public Order Division) of Vilnius City Municipality Administration with the participation of the petitioner's representatives. The sitting established that construction works were in progress in Rotušės Square due to which the contractor of the works, UAB Vilniaus Kapitalinė Statyba, was not able to ensure the safety of the participants, neither did the organiser of the event, the public organisation the Lithuanian Gay League, take any responsibility for the safety of the event, therefore due to the likely protests, it was suggested to the organisers that the meeting be organised in an enclosed space, so that the safety of the participants, spectators, and others could be ensured (page 38 of the case). The minutes also stated that the petitioner did not seek cooperation and, did not agree with this proposal, he did not want to organise the campaign in another location or in another form that would not contravene the law or endanger the safety of people, even though it had been noted that the campaign was related to the international conference held on 25-28 October at the Conti Hotel in Raugyklos Street in Vilnius. Having investigated the evidence available, the court passed a ruling that the contested decision of Vilnius City Municipality Administration to refuse to issue a certificate approving the

place, time, and form of the meeting *We Are for All Colours of Life* planned for 25 October 2007 Rotušės Square in Vilnius was substantiated and lawful. The interested party's decision was made on assessment of the fact that reconstruction works in Rotušės Square, Didžioji Street, and the adjacent streets in Vilnius were in progress and completion of the works, according to the Construction Contract No. 52 of 1 July 2005, was scheduled for 23 November 2007 (pages 35-39 of the case). It is evident, that holding a meeting on a building site with unfinished construction works would be dangerous, and the fulfilment of the duty stipulated in Article 15 Paragraph 5 Subparagraph 5 of the Law on Construction of the Republic of Lithuania to ensure the safety of the people residing, working, resting, and moving near the building site would contradict the requirements of good faith, reasonableness, and justice.

2. The court ruled that the contested decision of the municipal government could not be a violation of the petitioner's rights, because the Constitution of the Republic of Lithuania and other legal acts specified by the petitioner establish that the right to assemblies must be realised in accordance with the law. By choosing Rotušės Square in Vilnius, that was under reconstruction, as the place for his meeting, the petitioner failed to take into consideration this circumstance and there were no grounds for lodging its pe-

tition to the court requesting to set aside decision No. A51-19649-(3.24-PD-4) of Vilnius City Municipality Administration of 9 October 2007. By virtue of the motives provided to the court, the court rejected the petitioner's arguments that the contested decision contravened Article 36 of the Constitution of the Republic of Lithuania, Article 20 Paragraph 1 and Article 29 Part 2 of the Universal Declaration of Human Rights, Article 11 of the of the European Convention for the Protection of Human Rights and Fundamental Freedoms, and Articles 11 and 12 of the Law on Assemblies.

Basic arguments of the appeal:

1. The court misapplied the regulations of the Law on Assemblies and misinterpreted the contents thereof.

As can be seen from the contested ruling, the court, by virtue of the minutes of the sitting (page 38 of the case) submitted by the defendant, determined that at the sitting of 9 October 2007, due to possible protests, it was suggested to the organisers that they organise the event in an enclosed space. Yet the further conclusion of the court—that the “petitioner did not seek cooperation and did not agree with this proposal, he did not want to organise the campaign in such a location or form that would not contravene the law or endanger the safety of people, even though it was said that the said campaign was related to the international conference held

on 25–28 October at the Conti Hotel in Raugyklos Street in Vilnius”—is totally incomprehensible. Such generalisations are in conflict with the factual circumstances of the case, namely, that the petitioner did wish to cooperate with the defendant and his representatives; its was consciously involved in the approval procedure of the notification, and has been currently consistently seeking remedy of its infringed rights. It should be noted that on 9 October, i.e., on the same day when the plaintiff received the defendant's letter dated 5 October 2007 notifying about the construction works being carried out in Rotušės Square, the plaintiff's representatives called the defendant's representatives and on their own initiative suggested organising a sitting as soon as possible to discuss possible suggestions regarding the place of the meeting. It is evident that the plaintiff was indeed interested in the most efficient consideration of his notification and willingly sought full cooperation with the defendant. Since the defendant's letter dated 5 October 2007 did not contain any comments regarding the form, time, and safety issues of the meeting or any other circumstances related to the meeting, the petitioner had reasonable expectations that in the further stages of the consideration of the notification, only the place of the planned meeting would be at issue. Therefore, by participating in the sitting of 9 October 2007, the petitioner wished to find out the reason for the

refusal to approve the place of the event and, if the defendant provided a rational answer as to why it was not possible to organise the meeting in the place desired by the petitioner, he was ready to discuss other possible places for the meeting. The court should pay attention to the fact that during the sitting and the consideration of the notification, the petitioner did not object to the change of the location and, provided the defendant had confirmed the circumstances regarding the impossibility of organising the meeting in Rotušės Square, he would have been prepared to discuss other proposed locations for the meeting. However, it should be once again emphasised that during the sitting the defendant failed to propose a single possible alternative place for the meeting. It should be noted that during the said sitting, the petitioner's representatives were clearly told that it would not be possible to organise any similar events in public spaces in Vilnius, irrespective of the place, time or form of the event, and the only possibility would be to organise such events in an enclosed space.

In the contested ruling, the court's statement that "the petitioner did not agree with the respondent's suggestion to organise the event in an enclosed space" is a misinterpretation of the regulations of the Law on Assemblies, because an enclosed space cannot be considered to be another (alternative) place for the meeting within the meaning of that law.

Article 6 Paragraph 1 of the Law on Assemblies stipulates that this law sets conditions for organising meetings and the order to be observed in public places, i.e. city and town streets, squares, parks, and other public places and general use buildings. Article 3 Paragraph 1 states that, pursuant to this law, organisers can hold various meetings: rallies, pickets, demonstrations, processions, various marches, and other unarmed peaceful meetings. Article 2 of the law lists the meetings, organisation whereof is not regulated by the Law on Assemblies. Paragraph 7 of this article stipulates that this law does not regulate meetings organised by private persons, meetings for entertainment purposes, festivities, and other meetings of a private nature that are not organised in public places of general use.

To state the obvious, the Law on Assemblies regulates various meetings organised in public spaces and does not prescribe any requirements for private types of event organised in enclosed spaces. Therefore, the defendant's proposal to organise the planned meeting exclusively in an enclosed space is comparable to a prohibition to organise any such event in accordance with the definition provided in the Law on Assemblies, because, as has been mentioned, this law regulates only the events (meetings) organised in public places. It is only logical that the petitioner could not agree with the defendant's requirement, because, upon submitting his

notification, the petitioner wished to organise a public event, i.e., a meeting within the meaning of the Law on Assemblies, but not a private commercial event in an enclosed space. It should be noted that organisation of the event in an enclosed space does not generate a legal relationship between the petitioner and the defendant and is related to totally different premises for implementation, including additional expenses for rental of an enclosed space, etc. If the petitioner wished to organise a closed event, he would not have notified the defendant, because the law does not prescribe for an approval procedure for events organised in enclosed spaces. It is evident that in this case the petitioner had totally different aims and aspirations. The defendant's proposal to organise the event exclusively in an enclosed space illustrates the defendant's inability to distinguish between the notions of a meeting and a commercial event and the requirements stipulated in the laws for these two categories of events.

On the basis of the arguments above, it shall be concluded that the court passed the contested ruling without looking deep enough into the arguments provided by the plaintiff and misapplied the regulations of the Law on Assemblies of the Republic of Lithuania by virtue of the erroneous statement provided by the defendant that "the petitioner did not agree with the suggestion to organise the event in an enclosed space."

2. The court did not assess the arguments and evidence provided by the petitioner.

By handing down its contested ruling, the court in essence considered and spoke out with regard to only one of several of the defendant's arguments for the refusal to issue a certificate, i.e., regarding the suitability of the place of the meeting; however it did not assess any other grounds for the refusal. The court failed to assess the circumstances provided by the appellant and did not speak out regarding the arguments provided by the appellant. According to the provisions of Article 12 Paragraph 1 of the Law on Assemblies, the issue of a certificate regarding the approved place, time, and form of the meeting must be in writing and must have reasons. The court observed that "the interested party's decision was made having assessed the fact that reconstruction work was taking place in Rotušės Square, Didžioji Street, and the adjacent streets in Vilnius and completion of the works, according to the Construction Contract No. 52 of 1 July 2005, was scheduled for 23 November 2007 (pages 35-39 of the case)". However, during the sitting, the defendant did not substantiate the reasons for his refusal to allow the meeting in Rotušės Square (he did not provide the Construction Contract mentioned in the court ruling or other factual evidence) and the representatives of the third interested party, UAB Vilniaus Kapitalinė Statyba, did not participate at the said sit-

ting to confirm that construction work was taking place in Rotušės Square. Thus, the defendant's argument regarding Rotušės Square as an unsuitable place for the meeting was neither proved nor substantiated. It was only during the court hearing that the petitioner was able to familiarise himself with the said Construction Contract and other documents substantiating the construction. The court failed to consider the circumstance that this evidence was not available to the petitioner prior to the adoption of the disputed ruling. The court failed to mention or investigate the evidence with regard to one of the motives for the refusal to issue a certificate, namely, the defendant's assertion that the event could violate the safety of the state and society and public order. In his appeal the petitioner stated that it was the first time that the plaintiff had appealed to the defendant for approval of the meeting, therefore, the defendant had no grounds to draw conclusions about the form and content of meetings organised by the plaintiff. The court's attention should be drawn to the fact that neither in the contested decision nor during the court hearing had the defendant specified if any information was received with regard to the meeting of 25 October 2007 organised by the plaintiff which would give rise to doubt about the security of the meeting, neither did he provide any evidence that would give grounds to expect that protests would be

organised with relation to the plaintiff's planned event. The defendant's doubt about security issues during the scheduled meeting was expressed by reference to a different meeting in terms of its content and form held by another entity (organiser) planned half a year ago. It should be noted that the officials who participated in the sitting of 9 October 2007 also failed to specify whether any information was received about the organisation of any demonstrations with regard to the petitioner's planned meeting of 25 October 2007. It should also be noted that in his notification about the organisation of the meeting, the petitioner paid particular attention to the issues of safety during the meeting. The notification contained a request to the police regarding maintenance of public order during the event. During the sitting of 9 October 2007, the plaintiff drew the defendant's attention to the importance of solving this issue. The Law on Assemblies of the Republic of Lithuania establishes the duty of state authorities and police officials to create the opportunities to realise one's constitutional right to assemble in peaceful meetings. Pursuant to the provisions of Article 22 of the law, state authorities and police officials must provide for organisational and other possibilities stipulated in the laws to organise legitimate meetings, to protect the rights and freedoms of organisers and participants of the meetings and others, to ensure safety of the state and the

community, and to maintain public order, health and morals of the public. Officials who obstruct the organisation of legitimate meetings are accountable to the laws of the Republic of Lithuania. Consequently, the legislator emphasises the duty of state authorities and officials (hence, the defendant's duty) to provide opportunities for realisation of the constitutional right to the organisation of peaceful meetings. It should thus be concluded that even if the defendant had any reasonable information based on evidence that there were doubts as to ensuring safety during the planned meeting, he should, first of all, have taken all possible measures to ensure public order and public safety, but not infringed the plaintiff's right to hold meetings. The defendant's argument that the organisation of the appellant's planned event could violate the safety of the state and society, public order, people's health and morals, or other people's rights and freedoms is not based on any specific factual circumstances. This argument of the appellant contained in the contested decision was not at all assessed by the court and the court did not speak out with regard to it. In the ruling of 7 January 2000, the Constitutional Court of Lithuania established that the chief officer of the executive body of the local government council or his authorised representative, when adopting a decision to refuse to issue a certificate on the coordinated place, time and form of the meeting, is bound

by the basis of the restriction of the freedom of assembly as indicated in Article 36 Part 2 of the Constitution: in adopting such a decision, he must present clear proof as to the particular way a meeting is likely to violate the security of the state or the community, public order, people's health or morals, or the rights and freedoms of other persons. The court failed to consider the arguments regarding procedural violations and the unlawful delay in passing the contested decision. Article 10 Paragraph 1 of the Law on Assemblies establishes that notification about the organisation of a meeting must be considered no later than 3 working days from the receipt thereof and no later than 48 hours prior to the beginning of the meeting. Article 11 Paragraph 1 establishes that having considered the notification about the organisation of a meeting, the chief officer of the executive body of the local government council or his authorised representative makes a decision as specified in this article of the law and informs those concerned without delay. According to the provisions of Article 12 Paragraph 1 of the Law on Assemblies, the decision to decline to issue a certificate regarding the approved place, time, and form of the meeting must be provided in writing and must be accompanied with reasons for the refusal. Reasons and circumstances must be specified as to why a meeting cannot be approved because of an unacceptable form, place or

time of the meeting or other circumstances prescribed in the law. The decision must be signed by the chief officer of the executive body of the local government council or his authorised representative and a copy of the decision issued to the organisers or their representatives. The plaintiff submitted his notification about the organisation of the meeting on 4 October 2007, thus 9 October 2007 was the last day to consider the said notification and make a decision. Article 10 of the Law on Assemblies stipulates that if, in the course of the consideration of the notice, circumstances come to light due to which it is impossible to arrange the meeting in the form, at the place or the time specified in the notice, proposals regarding different forms, places or the time of the meeting may be submitted and considered only in the presence of the organizers of the meeting. It should be noted that the law does not foresee an extension of the time for investigation of the of the notification in case of any other proposals regarding the form, location, and time of the meeting are made, which consequently means that in any case the chief officer of the executive body of the local government council must consider the notification regarding the approval of the place, time, and form of the meeting within 3 working days. In the sitting of 9 October 2007, the defendant did not announce a decision regarding the approval of the meeting and did not provide a writ-

ten reply with reasons to the plaintiff. The contested decision, whereby the defendant refused the issue a certificate regarding the approved place, time, and form of the meeting, was only received on 15 October 2007 and, as seen from the post stamp attached to the envelope, was posted on 12 October 2007, i.e., much later than the 3 working day term prescribed by the law. It should be noted that the form of the contested decision fails to comply with that specified in the Law on Assemblies of the Republic of Lithuania as it does not provide clear reasons for the refusal based on evidence; neither does it provide justified arguments thereof. The refusal was based both on abstract statements, verification whereof is restricted, and illogical premises. The defendant disregarded the principles applicable to public administration entities stipulated in the Law on Public Administration of the Republic of Lithuania and the requirements of the individual legal act. It should be noted that the defendant's contested decision is "Regarding the permit to organize a public campaign", thus misleading the plaintiff and emphasizing the issuance of a permit to arrange the meeting, whereas the Law on Assemblies of the Republic of Lithuania clearly provides for the procedure of the submission of the notice regarding arrangement of the meeting and that of receipt of a corresponding certificate, but never requiring permission for the implementation of the

constitutional right to freedom of holding assemblies, i.e., the defendant does not issue permits for the organisation of meetings, he only approves the place, location, and form of the meeting. On the basis of the pleas above, it shall be stated that the court violated regulations of the procedural law, i.e., Article 270 Paragraph 4 of the Civil Code of Procedure, because it failed to assess the evidence on which the findings that the court arrived at were based. The court did not speak out regarding part of the arguments specified in the appellant's appeal, did not assess them critically, and unfoundedly relied only on the material submitted by the defendant.

3. The court did not cite the precedents of the European Court of Human Rights and did not follow the practice of the Constitutional Court of the Republic of Lithuania.

The court, in essence, did not analyse whether the contested decision contradicted the rights and freedoms entrenched in international human rights documents, the constitutional right to assemble in unarmed peaceful meetings, and the constitutional principle of equality (non-discrimination) and contravened the provisions of the Law on Equal Treatment of the Republic of Lithuania and the Law on Public Administration of the Republic of Lithuania. In the contested ruling the court states that “the contested decision could not be a violation of the petitioner's rights, because the Constitution of the Republic of Lithuania and

other legal acts specified by the appellant establish that the right to assemblies must be realised in accordance with the law”. However, the court did not indicate which provisions of the law the appellant failed to observe when implementing his right to assemblies. By rejecting the appellant's arguments that the contested decision contravenes Article 36 of the Constitution of the Republic of Lithuania, Article 20 Paragraph 1 and Article 29 Part 2 of the Universal Declaration of Human Rights, Article 11 of the of the European Convention for the Protection of Human Rights and Fundamental Freedoms, and Articles 11 and 12 of the Law on Assemblies, the court neither spoke out regarding the scope of realisation of the right to assemblies nor specified any legitimate grounds for limitation of this right in the case at issue.

Findings of the Court of Appeal (the entire ruling of the Court of Appeal is provided in the appendices to this report):

1. The chamber of judges adjudicated that the Court of First Instance assessed the factual circumstances of the case correctly and passed a legal and substantiated ruling. The appellant suggested that the interested party, Vilnius City Municipality Administration, did not seek to cooperate, because, having rejected the organisation of the campaign in Rotušės Square in Vilnius, it did not propose any alternative location except for an enclosed

space. The chamber of judges objected to the appellant's argument, noting that the interested party *did* propose an alternative location, unlike the organisers of the campaign, the public organisation the Lithuanian Gay League, who did not offer any alternatives and insisted on organising the campaign in Rotušės Square, in Vilnius. The chamber of judges pointed out that the proposal of an alternative place for a meeting shall not be understood as an instruction to use that particular place. Since, according to the Law on Assemblies, the organiser is responsible for organising an event, whereas the municipal administration only coordinates the approval of the place, time, and form, therefore the suggestion to organise an event in an enclosed space without specifying it or listing same, but leaving it to the discretion of the organisers, is an appropriate fulfilment of the duties of the municipal administration stipulated in the said law. The chamber of judges arrived at the conclusion that the appellant sought neither cooperation nor an alternative location for the campaign *We Are for All Colours of Life*.

2. The chamber of judges noted that the appellant misinterpreted the provisions of the Law on Assemblies of the Republic of Lithuania in saying that an enclosed space could not be considered an alternative place within the meaning of the Law on Assemblies of the Republic of Lithuania. Article 6 Paragraph 1 of the law sets

conditions for organising meetings and the order to be observed in public places, i.e. city and town streets, squares, parks, and other public places and general use buildings. It is evident that a public place for meetings is not only an open space such as a city square, but also an enclosed building. According to the above, the chamber of judges held that the Court of First Instance correctly applied the regulations of the Law on Assemblies of the Republic of Lithuania and had a sound reason for acknowledging that the appellant did not seek cooperation and did not agree with this proposal, he did not want to organise the campaign in another location or in another form that would not endanger the safety of people or contravene other interests protected by the law. The interested party refused to issue a certificate approving the place, time, and form of the meeting, because organisation of the meeting could violate the safety of the state and society, public order, people's health and morals, or other people's rights and freedoms and, therefore, proposed to the organiser that the event be held in an enclosed space. This decision by Vilnius City Municipality Administration was adopted by considering the fact that reconstruction work was taking place in Rotušės Square and Didžioji Street in Vilnius, completion whereof was scheduled for 23 November 2007.

3. The chamber of judges supported the opinion of the Court of First Instance

that holding a meeting on the building site with unfinished construction works would be dangerous, and fulfilment of the duty stipulated in Article 15 Paragraph 5 Subparagraph 5 of the Law on Construction of the Republic of Lithuania to ensure the safety of the people residing, working, resting, and moving near the building site would contradict the requirements of good faith, reasonableness, and justice. The appellant, the public organisation the Lithuanian Gay League, set out that Vilnius City Municipality Administration violated Article 10 of the Law on Assemblies as it establishes that a notification about the organisation of a meeting must be considered no later than within 3 working days from the receipt thereof and no later than 48 hours prior to the beginning of the meeting. The last day to consider the said notification and make a decision was 9 October 2007, but the interested party, Vilnius City Municipality Administration, in the sitting of 9 October 2007, did not announce the decision regarding the approval of the meeting and did not provide a written reply with reasons to the appellant. The reply was only posted on 12 October 2007. On the basis of the material of the case it has been established that the appellant's notification about the organisation of the meeting was received on 4 October 2007 and the reply was provided on the following day, i.e., on 5 October 2007. Since construction work was taking place at the location

specified by the appellant, the letter No. A51-(12.26-VTD-5)-19463 of 5 October 2007 of the Safe City Department (Public Order Division) of Vilnius City Municipality Administration informed the appellant about these circumstances and, pursuant to Article 10 Paragraph 3 of the Law on Assemblies of the Republic of Lithuania, stated that a sitting would be held where proposals regarding the change of the place and time would be discussed. The chamber of judges believe that the appellant erroneously identifies the sitting of 9 October 2007 with decision No. A51-19649-(3.24-PD-4) of 9 October 2007 by Vilnius City Municipality Administration, whereby the appellant was refused a certificate approving the place, time, and form of the place of the meeting. The sitting cannot be equated with the written decision No. A51-19649-(3.24-PD-4) of 9 October 2007 that was duly substantiated by providing all the circumstances and reasons for the refusal to issue the certificate. In the light of the above, the chamber of judges held that the appellant's argument was unfounded and therefore must be rejected, because the interested party, Vilnius City Municipality Administration, observed all the terms prescribed by the Law on Assemblies of the Republic of Lithuania and in due time provided to the appellant a substantiated decision regarding the refusal to issue a certificate approving the place, time, and form of the meeting.

4. By passing the contested ruling, the Court of First Instance did not establish that the refusal of Vilnius City Municipality Administration to issue a certificate approving the place, time, and form of the place of the meeting violated human rights and freedoms entrenched in international human rights documents. The chamber of judges noted that Vilnius City Municipality Administration did not prohibit the appellant's campaign; it only refused to issue a certificate in order to ensure the safety of people. Having assessed all the circumstances, the interested party stated that, due to the campaign, public disturbances or various other violations of public order might arise. Such conclusions were made because, during the planning of similar campaigns, the interested party received information about protests and possible public disturbance, therefore, the chamber of judges acknowledged that it was justifiably expected that the meeting organised by the appellant would result in a similar negative reaction from the public. The appellant's argument that Vilnius City Municipality Administration had to ensure public order and safety during the event must also be rejected. Article 9 of the Law on Assemblies of the Republic of Lithuania stipulates that the written request of the organisers must specify their wishes to the police regarding maintenance of public order; **however, it does not mean that Vilnius City Municipa-**

lity Administration must undertake to ensure public order, because this is not within the area of its competence.

5. The chamber of judges also noted that the campaign *We Are for All Colours of Life* was scheduled in Rotušės Square for 25 October 2007. Since this date had already passed, it was not possible to satisfy the appellant's request and issue a certificate regarding the approval of the place, time, and form of the meeting.

2.2 FULFILMENT OF THE DUTIES BY MUNICIPAL AUTHORITIES AS STIPULATED IN THE LAW ON EQUAL TREATMENT

The Office of Equal Opportunities Ombudsman (hereinafter—the defendant), following its decision of 28 November 2008 of “Regarding investigation of the complaints of Jolanta Samuolytė and the association the Lithuanian Gay League”, held not to consider the complaints of Jolanta Samuolytė and the applicant, the association the Lithuanian Gay League (hereinafter—the petitioner(s), LGL). The decision was recorded in the form of a notification-letter of 28 November 2008. On 5 January 2009, the Lithuanian Gay League appealed to Vilnius District Administrative Court requesting to set aside decision No. (08)-SN-154 of 28 November 2008 of the Office of Equal Opportunities Ombudsman.

The pleas of petitioner's complaint:

On 7 November 2008, the petitioner lodged a complaint with the defendant requesting the following:

- 1) Pursuant to Article 14 Paragraph 1 of the Law on Equal Treatment, Article 24 Paragraph 1 Subparagraph 3 of the Law on Equal Opportunities for Men and Women, and Article 41⁶ Paragraph 1 of the Code of Administrative Law Offences, to recognise that Juozas Imbrasas, mayor of Vilnius; Gintautas Paluckas, director of Vilnius City Municipality Administration; and the Vilnius City Council infringed Article 5 Paragraph 1 Subparagraphs 1, 2, and 3 of the Law on Equal Treatment and to impose the maximum fine prescribed in Article 41⁶ Paragraph 1 of the Code of Administrative Law Offences (LTL 2,000) on the said institutions (officials) for violations of the provisions of equal treatment.
- 2) By virtue of Article 14 Paragraph 1 of the Law on Equal Treatment and Article 24 Paragraph 1 Subparagraph 6 of the Law on Equal Opportunities for Men and Women, to issue a warning to Juozas Imbrasas, mayor of Vilnius; Gintautas Paluckas, director of Vilnius City Municipality Administration; and the Vilnius City Municipality Council regarding serious infringements of the Law on Equal Treatment and require that they should observe the provisions of this law in the future.
- 3) Pursuant to Article 14 Paragraph 1 of the Law on Equal Treatment and Article 24 Paragraph 1 Subparagraph 6 of the Law on Equal Opportunities for Men and Women, to submit Vilnius City Municipality Council a proposal to overrule the provisions of Clause 35.3.5 of the Rules for Clearing and Cleaning adopted by decision No. 1-582 of 16 July 2008 of Vilnius City Council that contravene the Law on Equal Treatment and that establish that “a decision can be made to deny a permit for events during which, in the opinion of the police or the commission, a public disturbance may arise or events, given the nature of the event, could cause a negative reaction from the public or opposition or some objective findings or other information has been obtained (written information is received about the events already organised and their negative consequences, public opinion polls have been carried out regarding the planned events, etc.) regarding possible violations. Such events may be organised only in enclosed spaces so that the safety of both the participants and the spectators can be ensured.”

- 4) Pursuant to Article 14 Paragraph 1 of the Law on Equal Treatment and Article 24 Paragraph 1 Subparagraph 1 of the Law on Equal Opportunities for Men and Women, if any evidence of the likely criminal acts is identified in the disputed actions of the authorities (officials), to pass the research material to a pre-trial investigation agency or a prosecutor.
- 5) Pursuant to Article 14 Paragraph 1 of the Law on Equal Treatment and Article 23 Paragraph 5 of the Law on Equal Opportunities for Men and Women, to inform the petitioner about the decision adopted.

By lodging a complaint with the defendant, the petitioner relied on Article 5 of the Law on Equal Treatment that stipulates the duty of state and local government authorities and agencies to implement equal treatment. In its complaint to the defendant, the petitioner pointed out specific actions (inaction), which, in the petitioner's opinion, showed that the municipal authorities (Mayor of Vilnius Juozas Imbrasas, Vilnius City Municipality Administration, and Vilnius City Municipality Council) failed to fulfil their duties. Article 10 of the Law on Equal Treatment stipulates that a violation of equal treatment is considered failure to fulfil or to fulfil inappropriately the established duties and failure to observe pro-

hibitions; that any complaints regarding violations of equal treatment should be submitted to Equal Opportunities Ombudsman (Article 15 Paragraph 1 of the Law on Equal Treatment) and investigated and that a decision should be passed pursuant to the procedure prescribed in the Law on Equal Opportunities for Men and Women of the Republic of Lithuania (Article 15 Paragraph 2 of the Law on Equal Treatment). On this basis, on 7 November 2008, a complaint was lodged with the defendant. However, on 4 December 2008, the petitioner received the contested decision from the defendant whereby, on no legal grounds and severely compromising procedural requirements stipulated in the Law on Equal Opportunities for Men and Women of the Republic of Lithuania, it was decided not to consider the petitioner's complaint.

As has been mentioned, Article 15 Paragraph 2 of the Law on Equal Treatment contains a reference whereby any complaints regarding violations of equal treatment shall be considered and adopted in accordance with the procedures stipulated in the Law on Equal Opportunities for Men and Women of the Republic of Lithuania. The said reference directs us to Chapter 5 of the Law on Equal Opportunities for Men and Women which regulates the procedure for handling and considering complaints regarding violations of the Law on Equal Treatment. Acceptance of complaints is regulated by Arti-

cle 18 of the Law on Equal Treatment, Paragraph 1 of which stipulates that each natural person and legal entity may lodge a complaint with the Equal Opportunities Ombudsman regarding violation of equal rights. Thus, even without reference to the systemic interpretation of the regulations of the said law, it is obvious that both a natural person and a legal entity may lodge a complaint with the Equal Opportunities Ombudsman, i.e., they are entities eligible to lodge a complaint. Therefore, it is hard to comprehend the statement in the defendant's decision that it is not clear on what grounds the petitioner appealed to the Equal Opportunities Ombudsman. It needs to be noted that even if the defendant established that the petitioner was not an entity eligible to lodge a complaint regarding violation of the Law on Equal Treatment, it had to reject and not consider the petitioner's complaint at the acceptance by informing the petitioner about it as soon as possible. However, in the case at issue the petitioner's complaint was analysed in substance which confirms that the defendant's arguments were unfounded.

Article 21 of the Law on Equal Opportunities for Men and Women stipulates the grounds for the refusal to consider a complaint and if any is identified, the Equal Opportunities Ombudsman refuses to consider the complaint and no later than within 15 days returns the complaint to the petitioner. Thus, it follows

that should no such grounds for the refusal be established, the complaint is investigated in substance and after investigation, one of the decisions prescribed in Article 24 of the Law on Equal Opportunities for Men and Women is made. In this case, the defendant investigated the petitioner's complaint in substance, yet in adopting the contested decision, the defendant specified Article 14 of the Law on Equal Treatment and Article 21 Paragraph 4 of the Law on Equal Opportunities for Men and Women as a procedural basis, pursuant to which the Equal Opportunities Ombudsman refuses to investigate a complaint and no later than within 15 days returns it to the applicant, if a complaint on the same issue has been investigated, if it is being investigated in court, or, pursuant to the laws, must be investigated in court. By virtue of the said regulation, the petitioner's complaint lodged on 7 November 2008 could be declined and within 15 days, i.e., no later than by 22 November 2008 returned to the petitioner, but it was accepted for investigation and as a result of investigation a decision was adopted on 28 November 2008. The duty of municipal institutions and agencies, pursuant to Article 5 of the Law on Equal Treatment, is to implement equal treatment. Paragraph 1 of this article establishes that, according to the area of their competence, municipal authorities and agencies must (1) provide that in all legal acts equal treatment be ensured

regardless of the person's sex, race, nationality, language, origin, social position, belief, convictions, age, sexual orientation, disability, ethnic origin, and religion. Pursuant to Article 5 Paragraph 2, municipal authorities and agencies must (2) draft, approve, and carry out the programmes and measures aimed for ensuring equal opportunities regardless of sex, race, nationality, language, origin, social position, belief, convictions, age, sexual orientation, disability, ethnic origin, and religion. In addition, Article 5 Paragraph 3 stipulates that municipal authorities and agencies must in the manner prescribed by the laws (3) support programmes of religious communities, societies, centres, public agencies, associations, and charity and support foundations which help to implement equal opportunities of people regardless of sex, race, nationality, language, origin, social position, belief, convictions, age, sexual orientation, disability, ethnic origin, and religion. Thus the Law on Equal Treatment, allocates the area of state and municipal governing not only to one of the areas (together with protection of the rights of employment, education and science, and consumer rights) where the principle of equal treatment must be observed, but also establishes a duty of state and municipal bodies/agencies to implement equal opportunities, i.e., to take action in supporting, promoting, and campaigning for implementation of equal treatment via specific programmes and

measures. By appealing to the defendant regarding violation of the Law on Equal Treatment, the petitioner specified that Vilnius City Municipality Administration did not fulfil its duty to ensure equal treatment regardless of the person's sex, race, nationality, language, origin, social position, belief, convictions, age, sexual orientation, disability, ethnic origin, or religion, i.e., by refusing to issue a permit to organise public events, it discriminated against certain groups specified in the Law on Equal Treatment. The complaint was based on violations of the Law on Equal Treatment, but not of the Law on Assemblies. The defendant did not even investigate the petitioner's complaint to the said extent, however, it did not try to identify whether the actions of Vilnius City Municipality Administration contravened the regulations of the Law on Equal Treatment specified by the petitioner, reasoning that, pursuant to Article 13 of the Law on Assemblies, the refusal to issue a certificate concerning the approved place and form of the meeting must be heard in court and that UAB Integrity PR, the organiser of the meeting, had the right to appeal against such refusal. It should be noted that the designated representatives of both the defendant and the petitioner contributed to the organisation of the said meeting which is substantiated by correspondence with UAB Integrity PR, thus it is obvious that the discriminating actions of municipal

authorities violated the rights of the petitioner, as a member of the work group that organised the meeting. Therefore a complaint was lodged with the defendant wishing to draw attention to possible violations of the Law on Equal Treatment. In addition, as can be seen from the enclosed correspondence with the authorised officials of international organisations enclosed, the defendant itself informally stated that the contested actions of municipal authorities were discriminatory and it would seek that a permit would be issued by municipal government for the said event. It needs to be noted that, due to possible act of discrimination, on several occasions official Lithuanian and international institutions, including the Ministry of Foreign Affairs, contacted mayor of Vilnius, pointing out that this sort of prohibition discriminates people on the grounds of their sexual orientation and emphasising that the freedom of self-expression and assemblies must be applied without discrimination. Therefore, with respect to the fact of possible discrimination, but not within the meaning of the Law on Assemblies, the defendant had, within the area of its competence, to consider the petitioner's complaint, yet it failed to do so. The defendant's argument that, by refusing to issue a permit, Vilnius City Municipality Administration relied on an article published on the internet, but not on the grounds of discrimination prohibited by the law, shall

also be disputed, because, it follows from such logic that the case of discrimination would be identified only if the discriminating party, when carrying out a discriminating action, would also specify the grounds that are considered to be a violation of equal treatment and formally would draw the defendant's attention that it is committing a violation on these grounds. It is the defendant's responsibility to monitor implementation of the Law on Equal Treatment, therefore, pursuant to this law and the requirements of the Law on Public Administration, it must consider the petitioner's complaint comprehensively and objectively within the limits of its competence. With respect to the actions of Juozas Imbrasas, mayor of Vilnius, in the contested decision the defendant noted that the complaint must not be investigated to such extent, because public statements of politicians and other state officials, due to their nature, were not regulated by the Law of Equal Treatment and did not fall under the field of their regulation; in addition, the defendant emphasised that the Office of Equal Opportunities Ombudsman could not investigate whether the procedural decisions of prosecutors or pre-trial officials were lawful and substantiated. Such arguments of the defendant are totally unjustified and incomprehensible. As can be seen from the factual circumstances provided in the defendant's decision, pursuant to the decision of 25 September 2008

of Vilnius Area Prosecutor's Office, a pre-trial investigation *was* started with regard to Jolanta Samuolytė's complaint (which later was joined with the petitioner's complaint) on the actions of Vilnius municipal government and Juozas Imbrasas, mayor of Vilnius, and the complaint was passed to the defendant for consideration. Thus, having not identified in the actions of municipal authorities any acts stipulated in the Criminal Code and thinking that these acts, instead, must be assessed with respect to the Law on Equal Treatment, the prosecution service passed Jolanta Samuolytė's complaint for the defendant to consider within the limits of its competence. Therefore, the defendant's argument whereby it refuses to consider the complaints of the petitioner and Jolanta Samuolytė to this extent stating that it is the actions of prosecution service that the petitioners appeal against and this is outside the limits of her competence, is completely incomprehensible. Such actions, in the opinion of the petitioner, can only be explained as an attempt to avoid any interpretation of the contested actions within the meaning of the Law on Equal Treatment. It should be noted that despite the defendant's insistence that it does not investigate public statements of the officials, it provides that, on its own initiative, it started an investigation regarding statements of Juozas Imbrasas, mayor of Vilnius, related to the paternal leave. In addition, even though

the defendant did not consider the petitioner's complaint regarding the actions of Vilnius municipality government and the mayor of Vilnius, in the contested decision it, after all, suggested reviewing the Rules for Clearing and Cleaning adopted by decision of 16 July 2008 of Vilnius City Municipality Council disputed in the petitioners' complaint. In the same decision, though, the defendant noted that the consideration of the said issue could not be attributed to the competence of the Equal Opportunities Ombudsman. In the defendant's opinion, these and other contradictions specified in the contested decision and procedural violations made during the consideration of the complaint, form the basis for setting the contested decision aside as unjustified, unfounded, and adopted by infringing the provisions of the Law on Public Administration and the essential procedural rules for investigation of such complaints.

Regarding entities, eligible to appeal to the Equal Opportunities Ombudsman concerning violations of Article 5 of the Law on Equal Treatment it was noted:

The case raises a question whether the petitioner is an appropriate entity eligible to file a complaint with the Equal Opportunities Ombudsman concerning violations of Article 5 of the Law on Equal Treatment. The petitioner puts forward the following arguments in disagreement with the position of the defendant, the Office

of Equal Opportunities Ombudsman and the third interested party, Vilnius City Municipality Administration, concerning the petitioner's illegibility to lodge such complaint: the right of legal entities to lodge a complaint with Equal Opportunities Ombudsman is clearly defined both in the Law on Equal Opportunities for Men and Women and the Law on Equal Treatment. Acceptance and investigation of complaints regarding violation of the Law on Equal Treatment is regulated in Chapter V "Acceptance and investigation of complaints" of the Law on Equal Treatment. Article 15 Paragraph 2 of this chapter contains a reference whereby any complaints regarding violations of equal treatment shall be considered and adopted in accordance with the procedures stipulated in the Law on Equal Opportunities for Men and Women of the Republic of Lithuania. The category of entities that may lodge a complaint with Equal Opportunities Ombudsman is stipulated in Clause 18 of Law on Equal Opportunities for Men and Women, pursuant to which, each natural person and legal person has the right to lodge a complaint with the Equal Opportunities Ombudsman regarding violation of equal treatment. Yet even without relying on Article 18 of the Law on Equal Opportunities for Men and Women and having compared the regulations stipulated in both laws concerning the protection of the rights of a discriminated person, it is obvious that

none of the laws distinguish between the concepts of the natural person (entity) and legal entity. When describing the categories of entities eligible appeal to the Ombudsman, in each case, the laws speak about a person/entity.

Article 12 of the Law on Equal Treatment. Protection of the rights of a discriminated person.

1. A person who believes that his equal opportunities have been violated has the right to appeal to the Equal Opportunities Ombudsman. Appeal to the Equal Opportunities Ombudsman does not limit his possibilities to defend his right in court.

Article 9 of the Law on Equal Opportunities of Men and Women. The rights of a discriminated person and the persons who represent him.

1. A person who believes that the discriminatory actions specified in this Chapter have been directed against him or he has become a subject of sexual or other harassment, shall have the right to appeal for an objective and impartial assistance of the Equal Opportunities Ombudsman.

The concept of a person in this case should not be interpreted in any other way than that prescribed in the Civil Code, whereby the subjects of civil relationships are considered natural persons and legal entities. The respective concept of a person is also used in the theory and practice of law. The provisions of the Law

of Equal Treatment cannot be interpreted in a narrow way and dissociated from the Law on Equal Opportunities for Men and Women. The norm which serves the basis for the defendant in explaining who may appeal to the defendant in case of the violation of equal treatment, is stipulated in Article 12 of the Law of Equal Treatment “Protection of the rights of a discriminated person”. Pursuant to this norm, associations or other legal entities are eligible whose activities of defending people discriminated on a certain basis or representing them in court are specified in the law as one of the activities of the legal entity, including representation of a discriminated person in legal and administrative proceedings as authorised by that person (Article 12 Paragraph 2 of the Law of Equal Treatment). The said norm of the law does not in any way define the categories of entities eligible to lodge complaints regarding violation of the Law on Equal Treatment and prescribes only one of the aspects of procedural investigation of the complaint, i.e., regulates the issue of representation of a natural person who has experienced discrimination. The said procedural provision concerning representation of a natural person who has experienced discrimination was included when an amendment to the Law on Equal Treatment was adopted (Law No. X-16022008 of 17 June 2008). Meanwhile, the Law on Equal Treatment (Law No. IX-1826 of 18 November 2003) that

was valid prior to this amendment, did not include this provision, however the category of entities eligible to appeal to Equal Opportunities Ombudsman regarding violations of the Law on Equal Treatment, like in the version of the law valid at this moment, was identified in Chapter V of the law and established that complaints regarding violation of equal rights were investigated and decision whereof made pursuant to the procedure stipulated in the Law on Equal Opportunities for Men and Women (Article 13 Paragraph 2). In its reply, the third interested party, Vilnius City Municipality Administration, states that “a single fact that Equal Opportunities Ombudsman is delegated to monitor implementation of both the Law on Equal Treatment and the Law on Equal Opportunities for Men and Women is not the ground to assert that entities stipulated in both laws may appeal regarding violation of provisions of both laws.” Pursuant to the principles of good faith, reasonableness, and justice, anti-discrimination basis entrenched in the Law on Equal Treatment and the Law on Equal Opportunities for Men and Women must be assessed on the same ground. In many laws (Labour Code, etc.), these grounds are laid out in sequence without prioritising any of them. Therefore protection against discrimination on the grounds of sexual orientation should not be in anyway smaller than that on the grounds of sex. The means of legal protection must

be equal on all grounds. For instance, how should we behave in the event of multiple discrimination? A woman who has experienced discrimination on the grounds of her sex and also is of Roma nationality and disabled should appeal to the defendant on one ground, but not the others? It should be noted that the new version of the Law on Equal Treatment also includes the basis of sex.

Cases of discrimination have a certain specifics. Following the model of proof and the reversal of the burden of proof stipulated in the Law on Equal Treatment and the Law on Equal Opportunities for Men and Women, one can assert that such cases must be heard for the benefit of the discriminated party, i.e., in the event of any doubt, ambiguous provisions of the law must be interpreted for the benefit of the weaker party.

The violation of Article 5 of the Law on Equal Treatment is made with respect to the groups specified in the law (*inter alia* homosexual persons), but not with respect to a specific natural person, therefore, the category of those whose rights have been violated and who are eligible to lodge a complaint concerning such violation, must not be restricted to natural persons. In the case at issue, the petitioner submitted a complaint to the defendant regarding violation of Article 5 of the Law on Equal Treatment, i.e., failure of municipal authorities to fulfil the duty of implementing equal treatment prescribed

to them by the law. The special area of legal relations regulated by this article should be considered, as the violation of this article does not mean the violation of the rights of a particular person whose rights are discriminated against (as for instance, in the case of Article 7 of the same law that prohibits discrimination in recruitment), but failure of state and municipal authorities to fulfil or to fulfil properly their established duties and observe prohibitions.

The duty of state and municipal authorities to implement equal opportunities includes: the duty to ensure that rights and opportunities would be contained in all legal acts on all grounds stipulated in the law (Law on Equal Treatment Article 5 Paragraph 1); the duty to draft, approve, and carry out the programmes and measures designated for ensuring equal treatment (Law on Equal Treatment Article 5 Paragraph 2); the duty to provide assistance to the programmes of religious communities, societies, centres, public agencies, associations, and charity and support foundations which help to implement equal opportunities of people (Law on Equal Opportunities Article 5 Paragraph 3).

Thus, in essence, the said tenet obliges state and municipal authorities to encourage implementation of equal opportunities on their own initiative and not only to prepare, approve, and carry out the relevant programmes, but also support the

programmes of non-governmental organisations, *inter alia* associations, that help to implement equal opportunities on the grounds stipulated in the law. The analysis of the content of the said duty leads us to conclude that failure to perform this duty (i.e., violation of Article 5 of the Law on Equal Treatment) occurs when there is a violation of the rights and interests of the entire discriminated group (*inter alia* homosexual people), but not of a particular natural person (a single representative of the discriminated group stipulated in the law). By stipulating the duty of municipal authorities to support initiatives of non-governmental organisations, *inter alia* associations, that represent the interests of the discriminated groups, in the area of equal treatment, Article 5 Paragraph 3 of the Law on Equal Treatment lists entities with respect to which such duty occurs, i.e., religious communities, societies, centres, public agencies, associations, and charity and support foundations. The association the Lithuanian Gay League is the only non-governmental organisation in Lithuania, the activity whereof is related to the defence of the rights of homosexual persons, one of the discriminated groups stipulated in the law. It is obvious that the petitioner does fall within the category of entities stipulated in Article 5 Paragraph 5 of the Law on Equal Treatment, with respect to which municipal authorities have the said duty. In representing one of the discriminated groups

stipulated in the law, the association actively participates in and implements at its expense various programmes devoted to ensuring equal treatment on the basis of sexual orientation. Operating in the same area, in which the law prescribes obligations to municipal authorities, the association is interested in defending the rights of the people who belong to the group represented by the association and prevention of the violations of the Law on Equal Treatment. The defendant's interpretation of the regulations of the law is, therefore, incomprehensible whereby the petitioner's subjectivity in terms of the Law on Equal Treatment is exclusively related only to the violation of the rights of a specific natural person. In line with such interpretation of the tenets of the law provided by the defendant, it should be stated that the violation of Article 5 of the Law on Equal Treatment would be unidentifiable, as entities eligible to lodge a complaint regarding the violation of this regulation, according to the defendant, can only be natural persons whose rights have been violated. However, identification of the violation of the rights of a specific natural person, in view of the content of the said regulation, would be practically impossible.

The Law on Equal Treatment does not require that a person must have experienced a specific violation of equal treatment directly in order to be entitled to lodge an appeal with the Equal Oppor-

tunities Ombudsman—any person who *believes* his equal opportunities have been violated may appeal. The third interested party, Vilnius City Municipality Administration, in its reply to the petitioner’s complaint says that “the Law on Equal Treatment requires that a person [...] must have experienced a specific violation of equal treatment directly”. Such interpretation of the Law on Equal Treatment in essence contradicts with the substance of the law.

Article 12 of the Law on Equal Treatment. Protection of the rights of a discriminated person.

1. A person who believes that his equal opportunities have been violated has the right to appeal to the Equal Opportunities Ombudsman. Appeal to the Equal Opportunities Ombudsman does not limit his possibilities to defend his right in court.

Article 9 of the Law on Equal Opportunities of Men and Women. The rights of a discriminated person and the persons who represent him.

1. A person who believes that the discriminatory actions specified in this Chapter have been directed against him or he has become a subject of sexual or other harassment, shall have the right to appeal for an objective and impartial assistance of the Equal Opportunities Ombudsman.

It follows from the wording of the law above that the law does not establish

that only specific persons may appeal to the Equal Opportunities Ombudsman regarding specific violations of the Law on Equal Treatment. Sufficient grounds for an appeal may be *belief* that equal treatment has been violated. In this case the petitioner, thinking that municipal authorities—Vilnius City Municipality Administration, mayor of Vilnius, and Vilnius City Municipality Council—had violated the provisions of Article 5 of the Law on Equal Treatment, submitted a complaint to the defendant.

It should be noted that, pursuant to the provisions of the Law on Equal Treatment, the Equal Opportunities Ombudsman has the right to initiate an investigation of a violation of the Law on Equal Treatment, therefore the defendant’s refusal to consider the petitioner’s complaint and the complaint of the third interested party shall be considered unjustified.

The fact that each natural person or a legal entity has the right to lodge a complaint with the Equal Opportunities Ombudsman regarding violation of equal treatment is also confirmed by the practice of complaint investigation. As can be seen from the reports of the Equal Opportunities Ombudsman, complaints regarding violations of the Law on Equal Treatment, including restraints of the rights of homosexual persons, were actively lodged by both various legal entities or non-governmental organisations,

for instance, Amnesty International, and other types of legal entities—agencies, organisations, and even political parties. The said complaints were not related to violation of the rights of a specific person, but attention was drawn to violations of the rights of a specific discriminated group (e.g., disabled persons, homosexual persons, etc.). The fact that such complaints were accepted and considered (unlike the petitioner’s complaint) denies the defendant’s interpretation of the Law on Equal Treatment regarding the petitioner’s subjectivity.

In 2008, much fewer complaints were received concerning sexual orientation. The number of such complaints has been varied since 2005. In 2005 and 2006, only in 2 cases research investigation was initiated, whereas the year 2007 saw a rise in the number of such complaints. The rise was due to isolated complaints from members of the international organisation Amnesty International pointing to the restraints of the rights of homosexual persons in Lithuania. Regarding discrimination on the basis of convictions, an appeal was received from one of the registered political parties concerning financing of the parties from the national budget. It should also be noted that agencies and organisations lodged complaints and requests that usually asked to investigate whether a certain legal act did not prioritise persons of a certain age group and thus whether the

rights of people on the grounds of their age were not restricted (extracts from the 2008 Report of the Office of Equal Opportunities Ombudsman).

In the overview of complaints regarding sexual orientation, in the 2008 Report, the Equal Opportunities Ombudsman notes that “in discussing the problems and areas described in such type of complaints, it should be noted that in 2008, people of non-traditional sexual orientation did not lodge any complaints to the Office of Equal Opportunities Ombudsman regarding violations of their rights in employment”. Thus, as can be seen from the Ombudsman’s report, all four complaints received in 2008 on this basis were from legal entities. The Ombudsman also gives a logical explanation why it is not natural persons, but entities—organisations and associations—that usually lodge complaints on the grounds of discrimination, as “it is likely that the majority of homosexual people “successfully” hide their sexual orientation at work and therefore avoid possible disputes and conflicts. Another reason that determines passive behaviour of homosexual persons and their reluctance to look for truth at work is rather traditional, namely, their fear to lose work and get into disgrace with their employers.”

Therefore, it is obvious that homosexual persons constitute a very vulnerable social group that, due to the said reasons, avoids publicity. In view of the situation, the role

of associations, other national and international human rights organisations that defend the rights of such people in lodging complaints aimed at addressing the restrictions of the rights of homosexual persons is particularly important. A narrow interpretation of the regulations of the Law on Equal Treatment concerning subjectivity of legal entities (as was the case with respect to the petitioner's complaint) will in essence deprive these people from the right to defend themselves against manifestation of discrimination.

Regarding the grounds for the petitioner's complaint with Equal Opportunities Ombudsman, the defendant and the third interested party, Vilnius City Municipality Administration, in their replies note that neither the petitioner nor the third interested party, Jolanta Samuolytė, filed an application with Vilnius City Municipality Administration for the permit to organise the event *For Diversity. Against Discrimination* on 20 August 2008, therefore they must not be eligible to lodge a complaint. This statement of the defendant leads to conclude that the Equal Opportunities Ombudsman misunderstood the grounds for the complaint. In this case the petitioner lodged a complaint with the Equal Opportunities Ombudsman not within the meaning of the Law on Assemblies as a wish to verify the validity and legitimacy of the decision adopted by Vilnius City Municipality Administration, but regarding the failure to fulfil the

duties assigned to municipal authorities in Article 5 of the Law on Equal Treatment. The petitioner's complaint specifies factual circumstances that are inevitably related to the said decision, but the complaint does not seek to set aside or review the said decision; it does, however, ask the defendant, within the area of its jurisdiction, to assess whether municipal authorities (mayor, administration director, and municipal council) in this case fulfilled their duty prescribed in Article 5 of the Law on Equal Treatment.

The petitioner's complaint lodged with the defendant included the following requests:

- 1) To identify whether by refusing to issue a permit to the Truck of Tolerance on the basis of the request of 21 July 2008, Vilnius City Municipality Administration duly fulfilled the duties prescribed to municipal authorities in the Law on Equal Treatment and observed the prohibitions set in the same law (Article 10 of the Law on Equal Treatment).

The petitioner indicated that the said act of municipal administration (refusal to issue a permit for the Truck of Tolerance) had been assessed by high Lithuanian and foreign officials as discriminatory, therefore, they requested from the Equal Opportunities Ombudsman to investigate compliance of the act with the provisions of Article 5 of the Law on Equal Treatment. The petitioner noted that on 22 July 2008, the Ministry of For-

eign Affairs received an appeal from the Representation of the European Commission in Lithuania that requested to mediate in receiving a permit from Vilnius municipal government for the Truck of Tolerance in Vilnius. In line with the international obligations of the Republic of Lithuania with respect to the protection of human rights and pursuant to the said request, the Ministry drew attention of Vilnius municipal government that discrimination against people of other sexual orientation in Lithuania was becoming the topic at issue within the international community. On 6 February 2008, Jean Huss, member of the Parliamentary Assembly of the European Council distributed an inquiry to the Committee of Ministers of the Council of Europe. The inquiry expressed a concern about the attitude of Vilnius municipal government towards the issues of sexual minorities and specified the actions committed by the municipal government. In response to the position of the Committee of Ministers, Ambassador Neris Germanas, the permanent representative of Lithuania to the Council of Europe, asserted at the sitting of the Committee of Ministers that Lithuania was ready for discussions on all the issues of human rights, including those related to the situation of homosexual people. He noted that legal acts of Lithuania prohibit discrimination on the grounds of sexual orientation and that the attention of the mayor of Vilnius and the

Equal Opportunities Ombudsman was drawn to the said inquiry of the member of the Parliamentary Assembly.

2) To identify whether Vilnius Mayor Juozas Imbrasas, by publicly inciting to discriminate against a certain social group, fulfilled the duties prescribed for municipal authorities (officials) in the Law on Equal Treatment and observed prohibitions stipulated by the same law (Article 10).

The petitioner noted that the Mayor of Vilnius Juozas Imbrasas, in his interview with channel TV3 speaking about the arrival of the Truck of Tolerance, asserted that as long as he was the Mayor of Vilnius, no advertising for sexual minorities in Vilnius would be allowed. Thus the highest municipal official, who has authority over other municipal institutions, including the municipality administration, expressed his preconceived negative opinion with respect to the issue of a permit to an event that promotes development of tolerance and ideas of equal treatment. Such actions can be treated as a violation of the duty stipulated in Clause 3 of the Law on Equal Treatment, to provide assistance to initiatives of public agencies and associations aimed at helping the implementation of equal opportunities for people (Article 3, Paragraph 1 Subparagraphs 1-3). The petitioner noted that in a democratic country which respects human rights, actions of state and municipal officials should contribute to the dissemi-

nation of tolerance rather than dissemination of discrimination in society.

3) To identify whether Clause 35.3.5 of the Rules for Clearing and Cleaning adopted by decision No. 1-582 of 16 July 2008 of Vilnius City Municipality Council that established that “a decision can be made to deny a permit for events during which, in the opinion of the police or the commission, a public disturbance may arise or events, given the nature of the event, could cause a negative reaction from the public or opposition or some objective findings or other information has been obtained (written information is received about the events already organised and their negative consequences, public opinion polls have been carried out regarding the planned events, etc.) regarding possible violations. Such events may be organised only in enclosed spaces so that the safety of both the participants and the spectators can be ensured” showed that the council duly fulfilled the duties prescribed to municipal authorities in the Law on Equal Treatment and observed the prohibitions set in the same law (Article 10 of the Law on Equal Treatment).

In the complaint, the petitioner emphasised that Vilnius City Municipality Council—seeking to legitimize the practice of Vilnius City Municipality Council that contravened the Law on Assemblies and the Law on Equal Treatment and allowed discrimination against certain groups by preventing them from exer-

cising their right to assemblies and moving events organised by them to enclosed premises—adopted decision No. 1-582 of 16 July 2008 that confirmed provisions of Clause 35.3.5 of the Rules for Clearing and Cleaning, whereby “a decision can be made to deny a permit for events during which, in the opinion of the police or the commission, a public disturbance may arise or events, given the nature of the event, could cause a negative reaction from the public or opposition or some objective findings or other information has been obtained (written information is received about the events already organised and their negative consequences, public opinion polls have been carried out regarding the planned events, etc.) regarding possible violations. Such events may be organised only in enclosed spaces so that the safety of both the participants and the spectators can be ensured.”

In the complaint, the petitioner drew the defendant’s attention to an enclosed space as an alternative to a standard location for an assembly which was not foreseen prior to the adoption of the decision and the said rules. These provisions that are in contrast to the Law on Assemblies were adopted in reply to the request of 4 October 2007 by the Lithuanian Gay League, whereby the Municipality Administration proposed to organise the meeting in an enclosed space (for instance, in Siemens Arena). Article 6 Paragraph 1 of the Law on Assemblies

stipulates that this law sets conditions for organising meetings and the order to be observed in public places, i.e. city and town streets, squares, parks, and other public places and general use buildings. Article 3 Paragraph 1 states that, pursuant to this law, organisers can hold various meetings: rallies, pickets, demonstrations, processions, various marches, and other unarmed peaceful meetings. Article 2 of the law lists the meetings, organisation whereof is not regulated by the Law on Assemblies. Article 7 of the law stipulates that this law does not regulate meetings organised by private persons, meetings for entertainment purposes, festivities, and other meetings of a private nature that are not organised in public places of general use. To state the obvious, the Law on Assemblies regulates various meetings organised in public spaces and does not prescribe any requirements for a private type of event organised in enclosed spaces. Therefore, the change of these rules, in the petitioner's opinion, not only contravenes the provisions of the Law on Assemblies, but also creates conditions for discrimination against certain social groups. As can be seen from the petitioner's requirements to the defendant above, all of them are within the context of legal regulation of human rights and equal opportunities, i. e. it was asked to assess the said actions/inaction of municipal institutions within the limits of the competence of the Equal Opportunities

Ombudsman. All the defendant's and the third party's, Vilnius City Municipality Council's, arguments concerning legitimacy of the issue of a permit to the Truck of Tolerance and violations of the Law on Assemblies are not essential to this case. The Equal Opportunities Ombudsman did not investigate the petitioner's complaint in substance within the limits of its competence, therefore, in the case at issue the subject of the petitioner's complaint was not assessed at all.

The petitioner asked the court the following:

To set aside decision No. (08)-SN-154 of 28 November 2008 of the Office of Equal Opportunities Ombudsman "Regarding investigation of the complaints of Jolanta Samuolytė and the association the Lithuanian Gay League" and to reinvestigate the petitioner's complaint and satisfy its requirements

The court's conclusions:

1. The Court of First Instance ruled out that the defendant's decision was justified. It was noted that Article 12 Paragraph 1 of the Law on Equal Treatment stipulated that a person who believed that his equal opportunities were violated might submit an appeal to the Equal Opportunities Ombudsman, whereas Article 12 Paragraph 2 of the Law on Equal Treatment stipulates that associations or other legal entities may, with the authori-

sation of the person who was discriminated against, represent him/her in judicial and administrative institutions in the manner prescribed by the law. It follows from the evidence given by the witnesses L. Rimkutė, M. Jankauskaitė, J. Gužaitė-Kvintus, and J. Šartuch during the court hearing that the issue of the denial of the permit was discussed at a special work group; information was provided that the official from the European Commission would not lodge a complaint against the decision of Vilnius City Municipality Administration; and it was discussed that non-governmental organisations must defend their rights themselves since the petitioner was a member of this work group. The presence of such a discussion does not create premises for legal representation, however.

Neither the Lithuanian Gay League nor the third interested party, Jolanta Samuolytė, contacted Vilnius City Municipality Administration regarding a permit for the event *For Diversity. Against Discrimination* on 20 August 2008. The application for the said permit was submitted by the organiser of the event, UAB Integrity PR, and the programme of the event submitted to Vilnius City Municipality Administration did not include any campaigns of the Lithuanian Gay League (pages 101–102 of the case).

The defendant justly noted that public statements of politicians or other state or municipal officials or an expression of

public opinion were not regulated by Article 5 of the Law on Equal Treatment.

2. The court also noted that in terms of the subject of the case, the defendant's decision was lawful and substantiated. The court did not investigate the legitimacy of the refusal of Vilnius City Municipality Administration to issue a permit for UAB Integrity PR and did not speak out on this issue. According to the court, in the contested decision the defendant correctly stated that UAB Integrity PR, as the organiser of the event, had the right to appeal in the prescribed manner against the decision of Vilnius City Municipality Administration to refuse the permit. By lodging a complaint with the Equal Opportunities Ombudsman, the petitioner, in essence disputed the decision of Vilnius municipal government to issue a permit. However, appeal against such actions of municipal government is attributed by the law to the court's jurisdiction. Therefore, the Equal Opportunities Ombudsman has to follow Article 21 Paragraph 1 Subparagraph 4 of the Law on Equal Opportunities for Men and Women that establishes that the complaint must not be considered by the Equal Opportunities Ombudsman if, pursuant to the law, it must be investigated in court.

3. The petitioner stated in the complaint that the defendant missed the term specified in Article 21 Paragraph 1 of the Law on Equal Opportunities for Men and Women that provided that in case

of a refusal to investigate a complaint, the complaint no later than within 15 days was to be returned to the applicant. However, Jolanta Samuolytė's complaint was forwarded to Equal Opportunities Ombudsman from Vilnius City Local Prosecution Service, after the Service had declined to start a pre-trial investigation with respect to the complaint and the material of the complaint was passed for consideration to the Office of Equal Opportunities Ombudsman according to its competence. The petitioner's complaint was received in the course of the investigation. In addition, when the investigation started, it was established that the pleas prescribed in Article 21 Paragraph 1 Subparagraph 4 of the Law on Equal Opportunities for Men and Women did exist, therefore the Equal Opportunities Ombudsman had the right to not consider the complaint. Therefore the court must reject the petitioner's arguments regarding the procedural violations.

4. 21 Paragraph 2 of the Law on Equal Opportunities for Men and Women allows the Equal Opportunities Ombudsman to make proposals to state and municipal authorities of the Republic of Lithuania regarding the enhancement of legal acts even if no violations have been committed. Therefore, in the court's opinion, it is unjustified for the petitioner to consider that the defendant's proposal in the contested decision to Vilnius City Municipality Administration to discuss

the issue regarding the review of the disputed Rules for Clearing and Cleaning adopted by decision of 16 July 2008 of Vilnius City Municipal Council was in any way in contrast to the decision of the Ombudsman to not consider the complaint.

On 27 May 2009, the Lithuanian Gay League lodged a complaint with the Supreme Administrative Court of Lithuania regarding decision of 13 May 2009 of Vilnius District Court and during completion of this report was awaiting investigation.

Arguments of the appeal:

1. The Court of First Instance did not at all speak out regarding arguments and requirements set out in the petitioner's complaint and the amendment to the complaint submitted on 5 May 2009, neither was it active in investigating the evidence provided by the parties.

The petitioner raised the issue regarding the entities that are eligible to file a complaint with the Equal Opportunities Ombudsman concerning violations of Article 5 of the Law on Equal Treatment. The arguments confirming the petitioner's right to file complaints with this Office were specified in the complaint:

- a) The right of legal entities to lodge a complaint with the Equal Opportunities Ombudsman is clearly defined both in the Law on Equal Opportunities for Men and Women

- and the Law on Equal Treatment;
- b) Violation of Article 5 of the Law on Equal Treatment was committed by the groups specified in the law (*inter alia* homosexual persons), but not against a specific natural person, therefore the category of entities whose rights are violated and who may lodge a complaint regarding violation of their rights must not be limited only to natural persons;
 - c) The Law on Equal Treatment does not require that a person must have experienced a specific violation of equal treatment directly in order to be entitled to lodge an appeal with the Equal Opportunities Ombudsman—any person who *believes* his equal opportunities have been violated may appeal;
 - d) That each natural person or legal entity has the right to lodge a complaint with the Equal Opportunities Ombudsman regarding violation of equal treatment is also confirmed by the practice of complaint investigation.

In the contested decision, the court did not at all voice its opinion regarding any argument stated in the petitioner's complaint and related to the petitioner's subjectivity; the petitioner's complaint was dismissed by the court without substantiating why the court took the defendant's position in claiming that the petitioner was not an entity eligible to

lodge a complaint with the Office of the Equal Opportunities Ombudsman. The court formally repeated the arguments stated in the defendant's and Vilnius City Municipality Administration's replies and was not active in investigating the evidence and interpreting the regulations of the Law on Equal Treatment on which the parties relied in the case. As far as this is concerned, the decision of Vilnius District Administrative Court lacks motives. In the petitioner's opinion, the Court of First Instance therefore violated its duty to justify its decisions.

2. The Court of First Instance misunderstood the subject of the investigation of the complaint and misapplied and misinterpreted the regulations of substantive law.

In the contested decision, the court states that the *petitioner's complaint lodged with the Equal Opportunities Ombudsman disputed the refusal of Vilnius City Municipality Administration to issue a permit* and noted that appeals against the actions of municipal government were regulated by the law stating that investigation of such appeals was the jurisdiction of the judicial courts. The statement of the court quoted above leads to the conclusion that that the court misunderstood the basis for the complaint; in this case the petitioner lodged a complaint with the Equal Opportunities Ombudsman not within the meaning of the Law on Assemblies as a wish to verify the validity and legitimacy

of the decision adopted by Vilnius City Municipality Administration (the petitioner had used this right before by referring the issue to an ordinary court of law), but regarding the failure to fulfil the duties assigned to municipal authorities in Article 5 of the Law on Equal Treatment. The petitioner's complaint specifies factual circumstances that are inevitably related to the said decision, but the complaint does not seek to set aside or review the said decision; it does, however, ask the defendant, within the area of its jurisdiction, to assess whether municipal authorities (mayor, administration director, and municipal council) in this case fulfilled their duty prescribed in Article 5 of the Law on Equal Treatment.

As can be seen from the requirements submitted in the petitioner's complaint to the defendant, they are all within the context of the legal regulation of human rights and equal treatment, i.e., the petitioner made a request for the actions/inaction of the said municipal authorities to be checked/assessed within the area of jurisdiction of the Equal Opportunities Ombudsman. All the arguments of the defendant and the third interested party, Vilnius City Municipality Administration, regarding the legitimacy of the issue of the permit for the Truck of Tolerance and violations of the Law on Assemblies are not essential to this case. The Court of First Instance agreed with this reasoning by stating in the contested decision that

the court will not consider the issue of legitimacy with respect to the refusal of Vilnius City Municipality Administration to issue a permit to UAB Integrity PR and will not speaking out regarding this issue. The court established correctly that the issue regarding violation of the Law on Assemblies was not the subject of the case and limited itself to this conclusion, yet **did not at all speak out regarding the issues (requirements) set out in the petitioner's complaint related to the violations of the Law on Equal Treatment**, which was the subject of investigation in this case.

3. When considering the case, procedural violations were made that caused erroneous and incomplete investigation of this case. The Court of First Instance unreasonably included Vilnius City Municipality Administration as the third interested party, without speaking out regarding the inclusion of Vilnius city mayor and administration director as parties to the case.

In considering the case, the Court of First Instance decided to include Vilnius City Municipality Administration as the third interested party, in essence basing this decision on the statement that this party, as the one that was the focus of the requirement made by the petitioner in its complaint filed with the defendant, was the party that might be interested in the result of the case. However, by virtue of the court's logic, other parties and persons (authorities) that were the focus of the re-

quirements made by the petitioner in its complaint filed with the defender should also have been included in this case: i.e. **Vilnius City Municipality Council and the mayor of Vilnius**. The court, however, did not speak out regarding inclusion of these parties and in the contested decision, did not in substance make a decision regarding the petitioner's requirements with respect to Juozas Imbrasas, mayor of Vilnius, and the Vilnius City Municipality Council. Therefore, the Court of First Instance violated its duty to reason its decisions.

4. The court did not rely on or assess the testimony of the witnesses L. Rimkutė, M. Jankauskaitė, J. Gužaitė-Kvintus, or J. Šartuch.

In the contested decision, the Court of First Instance did not at all assess the testimony of the witnesses, concluding that the issue of the refusal of the permit discussed at a special work group (which the petitioner was a member of), information provided that the official from the European Commission would not lodge a complaint against the decision of Vilnius City Municipality Administration, and discussion that non-governmental organisations must defend their rights themselves (the petitioner being a member of this work group), was not a prerequisite for legal representation.

Proposals and conclusions

1. Recognition of LGBT rights is coming with great difficulty into the Lithuanian legal system. Over the past years, having carried out monitoring of the developments in politics and the regulation of the state administrative sector with respect to LGBT inclusion (recognition of rights), we can state that in each level of government (legislative, executive, and local) regular violations of LGBT rights are recorded.

2. The actions of both the top state politicians (legislators) and the officials executing government policies usually do not promote the policy of equal treatment and development of human rights, but brutally violate the underlying human rights. A majority of the problems have been recorded with respect to the right to peaceful assembly and ensuring the principle of equality in the application of the provisions related to the implementation of equal treatment.

3. The role of state authorities responsible for the protection of LGBT rights

and human rights in general (the Seimas Ombudsmen and Equal Opportunities Ombudsman) is not efficient enough. The said authorities frequently display a formal or bureaucratic approach in implementing the principle of equal treatment and avoid fulfilling their functions, i.e., the function of promoting the application of anti-discrimination provisions and seeking to include them in the Lithuanian legal system.

4. Non-governmental organisations are the most active agents in defending LGBT rights¹². It is due to their efforts that the general human rights situation is monitored and programmes are prepared that would contribute to the promotion and implementation of equal treatment. Non-governmental organisations defending LGBT rights are often the only institutions that, in view of the inaction of government institutions, undertake to defend the rights and legal interests of LGBT persons and groups. It should also

¹² The Lithuanian Gay League is working in this area most actively.

be noted that, despite the intensive activities of non-governmental organisations, progress in this area is hindered by state policy, which renders no support to the activities of non-governmental organisations and frequently obstructs them from defending human rights (for instance, by setting restrictions concerning the representation of people defending their rights).

APPENDICES **Appendix 1**

Civil Case No. 15317-101/2007

VILNIUS CITY FIRST LOCAL COURT RULING

24 October 2007

Vilnius

Aldonė Biekšienė, judge of Vilnius City First Local Court, pursuant to written procedure, considered a petition submitted by the petitioner, the public organisation the Lithuanian Gay League, regarding setting aside of a decision by Vilnius City Municipality Administration (*Vilniaus miesto savivaldybės administracija*) and authorising it to perform actions, and

HAS ESTABLISHED:

The petitioner, the public organisation the Lithuanian Gay League, has requested setting aside decision No. A51-19649-(3.24-PD-4) of Vilnius City Municipality Administration of 9 October 2007 “Regarding the permit to organise a public campaign” as unjustified and illegitimate and to rule in favour of issuing a certificate to the petitioner regarding the approved place, time, and form of the meeting. It was pointed out that, pursuant to the provisions of Article 9 of the Law on Assemblies of the Republic of Lithuania, Vilnius City Municipality Administration was notified about the organisation of a public campaign called *We Are for All Colours of Life* to be held on 25 October 2007, in Rotušės (Town Hall) Square, in Vilnius. The event sought to draw the attention of the public to the problem of discrimination against homosexual people and raise the awareness of the public and understanding with respect to sexual orientation. During the campaign, it was intended to spread a 30-metre rainbow flag, a symbol of homosexuals.

Letter No. A51-(12.26-VTD-5)-19463 dated 5 October 2007 of the Safe City Department (Public Order Division) of Vilnius City Municipality Administration, informed the petitioner that due to construction work in Rotušės Square carried out by the contractor for construction work, UAB Vilniaus Kapitalinė Statyba, the contractor refused to approve the event on the construction site, because during the execution of work the contractor could not ensure the safety of the participants of the event. The letter stated that the petitioner would be provided with proposals to change the place and time of the event. The applicant's representatives participated in the sitting of 9 October 2007 regarding organisation of the public campaign called *We Are for All Colours of Life*, where it was proposed that the meeting should be organised in an enclosed space (e.g., in Siemens Arena). No other alternatives concerning the location of the event were provided. On 15 October 2007, the petitioner received decision No. A51-19649-(3.24-PD-4) of 9 October 2007 of Vilnius City Municipality Administration "Regarding the permit to organise a public campaign", which refused the issue a certificate regarding the approved place, time, and form of the meeting. The refusal was based on the fact that construction work was taking place in Rotušės Square, the requirements of Clause 15 Paragraph 5 Subparagraph 5 of the Law on Construction of the Republic of Lithuania, and the petitioner's refusal to organise the event in an enclosed space. The petitioner believes that the said legal act is a specific legal norm that regulates the legal relations of the parties involved in construction and cannot be the basis for the refusal to approve a certain place for the organisation of a meeting. In its petition to the court, the petitioner noted that the contested decision contravenes Article 36 of the Constitution of the Republic of Lithuania, Article 20 Paragraph 1 and Article 29 Part 2 of the Universal Declaration of Human Rights, Article 11 of the of the European Convention for the Protection of Human Rights and Fundamental Freedoms, and Articles 11 and 12 of the Law on Assemblies and fails to comply with the practice established by the European Court of Human Rights; the petitioner also set out his motives (pages 1–13 of the case).

The interested parties—Vilnius City Municipality Administration and UAB Vilniaus Kapitalinė Statyba—provided material to the court related to the consideration of the petitioner's notification at Vilnius City Municipality Administration and also Construction Contract No. 52 of 1 July 2005, the subject of which was reconstruction work in Rotušės Square, Didžioji Street, and adjacent streets in Vilnius (pages 37–48 of the case).

The petitioner, the public organisation the Lithuanian Gay League, submitted additional evidence required for resolving the case to the court, disregarding the rule speci-

fied in Clause 113 Paragraph 3 of the Code of Civil Procedure that documents must be submitted to the court in the national language (page 49 of the case).

The petition must be rejected. The material of the case establishes that on 4 October 2007 the representatives of the public organisation the Lithuanian Gay League submitted a notification to Vilnius City Municipality Administration about the organisation of a public campaign called *We Are for All Colours of Life* to be held on 25 October 2007 in Rotušės Square in Vilnius (pages 14–19 of the case).

Decision No. A51-19649-(3.24-PD-4) of 9 October 2007 by Vilnius City Municipality Administration, “Regarding the permit to organise a public campaign”, refused the issue of a certificate regarding the place, time, and form of the meeting by virtue of Article 11 Paragraph 1 Subparagraph 2 of the Law on Assemblies and specified that by organising the event *We Are for All Colours of Life* planned on 25 October in Rotušės Square, the safety of the state or the community, public order, health or morals of the public, or the rights and freedoms of other people might be violated (page 21 of the case).

The minutes of the sitting provided to the court show that the notification about the organisation of the meeting was considered at the sitting of 9 October 2007 of the Safe City Department (Public Order Division) of Vilnius City Municipality Administration with the participation of the petitioner’s representatives. At the sitting, it was established that construction work was in progress in Rotušės Square. Because of this work, the contractor, UAB Vilniaus Kapitalinė Statyba, was not able to ensure the safety of the participants. The organiser of the event, the public organisation the Lithuanian Gay League, was not willing to take any responsibility for the safety of the event either. Therefore, because of the likely protests, the suggestion was made to the organisers that the meeting should be organised in an enclosed space so that safety of the participants, spectators, and others could be ensured (page 38 of the case).

The petitioner did not seek cooperation, did not agree with this proposal, and did not want to organise the campaign in another location or in another form that would not contravene the law or endanger the safety of people, even though it was said that the said campaign was related to the international conference held on 25–28 October at the Conti Hotel in Raugyklos Street in Vilnius. Having considered the evidence of the case, the court ruled that the contested decision of Vilnius City Municipality Administration to refuse to issue a certificate approving the place, time, and form of the meeting *We Are for All Colours of Life* planned on 25 October 2007 Rotušės Square in Vilnius was substantiated and lawful. The interested party’s decision was made after assessing that reconstruction work of Rotušės Square, Didžioji Street, and

adjacent streets in Vilnius was in progress and completion of the work, according to Construction Contract No. 52 of 1 July 2005, was scheduled for 23 November 2007 (pages 35–39 of the case). It is evident that the choice of the place for the meeting on a building site with unfinished construction work would cause danger, and nonfulfilment of the duty stipulated in Article 15 Paragraph 5 Subparagraph 5 of the Law on Construction of the Republic of Lithuania to ensure the safety of the people residing, working, resting, and moving near the building site would contradict the requirements of good faith, reasonableness, and justice.

The court adjudicates that the contested decision of the interested party cannot be considered a violation of the petitioner's rights because the Constitution of the Republic of Lithuania and other legal acts specified by the petitioner establish that the right to assemble must be realised in accordance with the law. By choosing Rotušės Square in Vilnius, which was being reconstructed, as the place for a meeting, the petitioner failed to take into consideration this circumstance and applied with an ungrounded petition to the court requesting that decision No. A51-19649-(3.24-PD-4) of Vilnius City Municipality Administration of 9 October 2007 should be set aside. By virtue of the motives provided to the court, the court rejects the petitioner's arguments that the contested decision contravenes Article 36 of the Constitution of the Republic of Lithuania, Article 20 Paragraph 1 and Article 29 Part 2 of the Universal Declaration of Human Rights, Article 11 of the of the European Convention for the Protection of Human Rights and Fundamental Freedoms, and Articles 11 and 12 of the Law on Assemblies.

Pursuant to Article 83 Paragraph 1 Subparagraph 13 of the Code of Civil Procedure, the petitioner is a stamp duty-free entity, and therefore the stamp duty in the amount of LTL 100 paid by the petitioner should be paid back. The stamp duty will be paid back by the State Tax Inspectorate by virtue of this ruling (Article 87 Paragraph 3 of the Code of Civil Procedure).

In conformation with Article 83 Paragraph 1 Subparagraph 13; Article 87 Paragraph 3 and Article 582 Paragraphs 5–6 of the Code of Civil Procedure, the Chamber of Judges have passed the following.

RULING:

To dismiss the petition of the petitioner, the public organisation the Lithuanian Gay League, regarding setting aside the decision No. A51-19649-(3.24-PD-4) of Vilnius City Municipality Administration of 9 October 2007 and authorising Vilnius City Municipality Administration to perform actions.

To pay back to the public organisation the Lithuanian Gay League (company code 9490298) the stamp duty in the amount of **LTŁ 100** (one hundred litas) paid by the organisation pursuant to the payment order of 19 October 2007 at AB SEB Vilniaus Bankas.

The ruling is subject to appeal within 7 days of its receipt with Vilnius District Court of Appeal via the court that passed the ruling.

Judge

Aldonė Biekšienė

Appendix 2

Rapporteur Algirdas Auruškevičius
Judge Aldona Biekšienė

Civil Case No. 2S-1104-52/2007
Category of the procedural document 122.4

VILNIUS DISTRICT COURT RULING

21 December 2007
Vilnius

The chamber of judges of Vilnius District Court, the Division of Civil Cases composed of Algirdas Auruškevičius (chairman of the chamber and the rapporteur) and judges, Danutė Kutrienė and Rasa Gudžiūnienė, in the public hearing of the court, pursuant to written procedure, considered a separate appeal submitted by the appellant, the public organisation the Lithuanian Gay League, against the ruling of 24 October 2007 of the First Vilnius City Local Court which rejected the appellant's claim in the Civil Case No. 2-15317-101/2007 based on the petitioner's, the public organisation's the Lithuanian Gay League, claim regarding setting aside of a decision by the interested parties, Vilnius City Municipality Administration (*Vilniaus miesto savivaldybės administracija*) and UAB Vilniaus Kapitalinė Statyba, and authorising them to perform actions.

The chamber of judges, having investigated the civil case,

HAS ESTABLISHED:

The appellant, the public organisation the Lithuanian Gay League, appealed to the court and requested setting aside decision No. A51-19649-(3.24-PD-4) of Vilnius City Municipality Administration of 9 October 2007 "Regarding the permit to organise a public campaign" as unjustified and illegitimate and to rule in favour of issuing a cer-

tificate to the appellant regarding the approved place, time, and form of the meeting. It was pointed out that, pursuant to the provisions of Article 9 of the Law on Assemblies of the Republic of Lithuania, Vilnius City Municipality Administration was notified about the organisation of a public campaign called *We Are for All Colours of Life* to be held on 25 October 2007, in Rotušės (Town Hall) Square, in Vilnius. The event sought to draw the attention of the public to the problem of discrimination against homosexual people and raise the awareness of the public and understanding with respect to sexual orientation. During the campaign, it was intended to spread a 30-metre rainbow flag, a symbol of homosexuals.

Letter No. A51-(12.26-VTD-5)-19463 dated 5 October 2007 of the Safe City Department (Public Order Division) of Vilnius City Municipality Administration, informed the appellant that due to construction work in Rotušės Square carried out by the contractor for construction work, UAB Vilniaus Kapitalinė Statyba, the contractor refused to approve the event on the construction site, because during the execution of work the contractor could not ensure the safety of the participants of the event. The letter stated that the appellant would be provided with proposals to change the place and time of the event. The applicant's representatives participated in the sitting of 9 October 2007 regarding organisation of the public campaign called *We Are for All Colours of Life*, where it was proposed that the meeting should be organised in an enclosed space (e.g., in Siemens Arena). No other alternatives concerning the location of the event were provided. On 15 October 2007, the appellant received decision No. A51-19649-(3.24-PD-4) of 9 October 2007 of Vilnius City Municipality Administration "Regarding the permit to organise a public campaign", which refused the issue a certificate regarding the approved place, time, and form of the meeting. The refusal was based on the fact that construction work was taking place in Rotušės Square, the requirements of Clause 15 Paragraph 5 Subparagraph 5 of the Law on Construction of the Republic of Lithuania, and the petitioner's refusal to organise the event in an enclosed space. The petitioner noted that the contested decision contravenes Article 36 of the Constitution of the Republic of Lithuania, Article 20 Paragraph 1 and Article 29 Part 2 of the Universal Declaration of Human Rights, Article 11 of the of the European Convention for the Protection of Human Rights and Fundamental Freedoms, and Articles 11 and 12 of the Law on Assemblies and fails to comply with the practice established by the European Court of Human Rights.

By decision dated 27 October 2007 of the First Vilnius City Local Court the appellant's, the public organisation's the Lithuanian Gay League, petition regarding setting aside of decision No. A51-19649-(3.24-PD-4) of 9 October 2007 of Vilnius City

Municipality Administration and authorising it to perform actions was rejected. The stamp duty in the amount of LTL 100 paid by the appellant pursuant to the payment order of 19 October 2007 at AB SEB Vilnius Bankas (pages 53-55 of the case) was paid back to the appellant. The Court of First Instance pointed out that the contested decision of Vilnius City Municipality Administration not to issue a certificate for the approved place, time, and form of the meeting related to the proposed event *We Are for All Colours of Life* to be organised on 25 October 2007 in Rotušės Square in Vilnius was grounded and legal. The decision of the interested party was adopted in view of the construction works taking place in Rotušės Square, Didžioji Street and adjacent streets in Vilnius, completion of which according to Construction Contract No. 52 dated 1 July 2005 was scheduled for 23 November 2007. The court established that the choice of the location for the campaign on a building site with unfinished construction work would cause danger, and nonfulfilment of the duty stipulated in Article 15 Paragraph 5 Subparagraph 5 of the Law on Construction of the Republic of Lithuania to ensure the safety of the people residing, working, resting, and moving near the building site would contradict the requirements of good faith, reasonableness, and justice. The court considered that the organisers of the campaign that failed to take into account the safety requirements and ruled out the petition to be unfounded.

The appellant, the public organisation the Lithuanian Gay League, lodged a separate appeal to the court requesting to overrule the ruling of the First Vilnius City Local Court dated 24 October 2007 and adopt a new decision that would satisfy the appellant's request to set aside decision No. A51-19649-(3.24-PD-4) of Vilnius City Municipality Administration of 9 October 2007 and authorise the administration to perform actions. The appellant specifies that the public organisation the Lithuanian Gay League actively sought cooperation with Vilnius City Municipality Administration regarding the selection of the location for the campaign. However, the interested party refused to organise the campaign in Rotušės Square in Vilnius and did not propose a single alternative location for the meeting, except an enclosed space. The appellant notes that an enclosed space cannot be considered an alternative place within the meaning of the Law on Assemblies of the Republic of Lithuania. The interested party's requirement to organise the meeting exclusively in the enclosed space could be compared to the prohibition to organise the type of the meeting defined in the Law on Assemblies, because this law regulates only the meetings held in public places. The appellant, therefore, could not agree with such defendant's request as in his notification the appellant wished to organise a public event, i.e. the event within the meaning of the Law on Assemblies of the Republic of Lithuania, but not a private commercial event

in an enclosed space. The appellant notes that the Court of First Instance did not at all speak out and provide evidence related to one of the motives for the refusal to issue a certificate, namely, the defendant's statement that during the event the safety of the state or the community and public order might be violated. However, Vilnius City Municipality Administration did not provide any evidence that the said campaign could threaten safety and that protests were to be organised with respect to the appellant's planned event. The appellant believes that even if the defendant had any reasonable information based on evidence that there were doubts as to ensuring safety during the planned meeting, he should, first of all, have taken all possible measures to ensure public order and public safety, but not infringed the appellant's right to hold a meeting. Article 10 Paragraph 1 of the Law on Assemblies establishes that notification about the organisation of a meeting must be considered no later than 3 working days from the receipt thereof and no later than 48 hours prior to the beginning of the meeting. According to the provisions of Article 12 Paragraph 1 of the Law on Assemblies, a decision to decline the issue of a certificate regarding the approved place, time, and form of the meeting must be provided in writing and must contain the reasons for the refusal. The appellant submitted his notification of the intended meeting on 4 October 2007, thus 9 October 2007 was the last day for consideration of the said notification and for a decision to be made. As has been mentioned, at the sitting of 9 October 2007, the interested party, Vilnius City Municipality Administration, did not announce a decision regarding the approval of the meeting and did not provide a written reply, with the reasons for refusal to the appellant. The appellant notes that the contested decision, whereby it was refused to issue a certificate regarding the approved place, time, and form of the meeting, was only received on 15 October 2007 and was posted on 12 October 2007, i.e., much later than the 3 working day term prescribed by the law. The appellant also states that the Court of First Instance did not cite the precedents of the European Court of Human Rights and did not follow the practice of the Constitutional Court of the Republic of Lithuania. The European Convention for the Protection of Human Rights and Fundamental Freedoms is an indivisible part of the national law of the European Council member states, including Lithuania, and prohibits discrimination on the grounds of sexual orientation or sexual identity. The appellant also notes that the Constitutional Court of Lithuania, in its ruling of 7 January 2000, established that the chief officer of the executive body of the local government council or his authorised representative, when adopting a decision to refuse to issue a certificate on the coordinated place, time and form of the meeting, is bound by the basis of the restriction of freedom of assembly as indicated in Article 36 Part 2 of the Constitution: adopting such a decision, he must

present clear proof as to the particular way the meeting is likely to violate the security of the state or the community, public order, people's health or morals, or the rights and freedoms of other persons. The Court of First Instance, in essence, did not analyse whether the contested decision contradicted the rights and freedoms entrenched in international human rights documents, the constitutional right to assemble in unarmed peaceful meetings, the constitutional principle of equality (non-discrimination), and the provisions of the Law on Equal Treatment of the Republic of Lithuania and the Law on Public Administration of the Republic of Lithuania.

In its reply to the separate appeal of the appellant (the public organisation the Lithuanian Gay League), the interested party, Vilnius City Municipality Administration, requests to dismiss the separate appeal and to uphold the decision of the Court of First Instance. The interested party notes that the appellant misinterprets provisions of the Law on Assemblies of the Republic of Lithuania, because a public place for meetings may not only be an open one (a square, street, etc.), but also an enclosed one (a building). It is noted that the appellant's notification about the organisation of the meeting was received by Vilnius City Municipality Administration on 4 October 2007. Pursuant to Article 10 of the Law on Assemblies, this notification was considered on 5 October 2007, i. e., no later than within 3 days of its receipt. Since construction work was taking place at the location specified by the appellant, the letter No. A51-(12.26-VTD-5)-19463 dated 5 October 2007 of the Safe City Department (Public Order Division) of Vilnius City Municipality Administration informed the appellant about these circumstances and, pursuant to Article 10 Paragraph 3 of the Law on Assemblies of the Republic of Lithuania, stated that a sitting would be held where proposals regarding the change of the place and time would be discussed. This letter contained arguments why the event could not take place in Rotušės Square in Vilnius, because it was not possible to ensure safety of the participants of the event. In view of this, the appellant's statements that in its letter Vilnius City Municipality Administration failed to set out these circumstances are unfounded. The interested party specified that it is suggested to the appellant to organise the proposed event in an enclosed space that is also considered to be a place for meetings within the meaning of the Law on Assemblies of the Republic of Lithuania. Thus, the appellant's argument that during the sitting Vilnius City Municipality Administration did not offer any locations for the event, is unfounded. The interested party also disagrees with the appellant's argument that when making a decision, the interested party had no grounds to make judgements about the form and content of the prior meetings organised by the defendant or conclude that that protests and public disturbance might occur during the appellant's proposed event.

Such conclusions were made because, during the planning of similar campaigns information was received about protests and possible public disturbance, therefore, Vilnius City Municipality Administration justifiably expected that the meeting organised by the appellant would result in a similar negative reaction from the public. The appellant's statement that Vilnius City Municipality Administration had to take all possible measures to ensure public order and safety during the event is declarative and abstract, because ensuring public order and safety is the obligation of the police, but not Vilnius City Municipality Administration. Article 11 of the Law on Assemblies of the Republic of Lithuania establishes that an executive municipal institution may refuse to issue a certificate, if the safety of the state or the community, public order, health or morals of the public, or the rights and freedoms of other people might be violated. In addition, the appellant unfoundedly notes that the refusal to issue a certificate for the meeting shows discrimination against the appellant on the grounds of sexual orientation or sexual identification. The interested party, Vilnius City Municipality Administration, points out that the certificate was not issued due to objective reasons and therefore considers that the Court of First instance appropriately assessed factual circumstances of the case and adopted a justified decision.

The separate appeal of the appellant, the public organisation the Lithuanian Gay League, must be set aside.

The chamber of judges adjudicated that the Court of First Instance assessed the factual circumstances of the case correctly and passed a legal and substantiated ruling. The appellant noted that the interested party, Vilnius City Municipality Administration, did not seek to cooperate, because, having rejected the organisation of the campaign in Rotušės Square in Vilnius, it did not propose any alternative location except for an enclosed space. The chamber of judges objects to the appellant's argument, noting that the interested party *did* propose an alternative location, unlike the organisers of the campaign, the public organisation the Lithuanian Gay League, who did not offer any alternatives and insisted on organising the campaign in Rotušės Square, in Vilnius. In addition, the chamber of judges points out that the proposal of an alternative place for a meeting shall not be understood as an instruction to use that particular place. Since, according to the Law on Assemblies, the organiser is responsible for organising an event, whereas the municipal administration only coordinates the approval of the place, time, and form, therefore the suggestion to organise an event in an enclosed space without specifying it or listing same, but leaving it to the discretion of the organisers, is an appropriate fulfilment of the duties of the municipal administration stipulated in the said law. The chamber of judges, therefore, concludes that the appellant sought neither co-

operation nor an alternative location for the campaign *We Are for All Colours of Life*. The chamber of judges notes that the appellant misinterpreted the provisions of the Law on Assemblies of the Republic of Lithuania in saying that an enclosed space could not be considered an alternative place within the meaning of the Law on Assemblies of the Republic of Lithuania. Article 6 Paragraph 1 of the law sets conditions for organising meetings and the order to be observed in public places, i.e. city and town streets, squares, parks, and other public places and general use buildings. It is evident that a public place for meetings is not only an open space such as a city square, but also an enclosed building. According to the above, the chamber of judges holds that the Court of First Instance correctly applied the regulations of the Law on Assemblies of the Republic of Lithuania and had a sound reason for acknowledging that the appellant did not seek cooperation and did not agree with this proposal, he did not want to organise the campaign in another location or in another form that would not endanger the safety of people or contravene other interests protected by the law.

The interested party refused to issue a certificate approving the place, time, and form of the meeting, because organisation of the meeting could violate the safety of the state and society, public order, people's health and morals, or other people's rights and freedoms and, therefore, proposed to the organiser that the event be held in an enclosed space. This decision by Vilnius City Municipality Administration was adopted by considering the fact that reconstruction work was taking place in Rotušės Square and Didžioji Street in Vilnius, completion whereof was scheduled for 23 November 2007. The chamber of judges supports the opinion of the Court of First Instance that holding a meeting on the building site with unfinished construction works would be dangerous, and fulfilment of the duty stipulated in Article 15 Paragraph 5 Subparagraph 5 of the Law on Construction of the Republic of Lithuania to ensure the safety of the people residing, working, resting, and moving near the building site would contradict the requirements of good faith, reasonableness, and justice.

The appellant, the public organisation the Lithuanian Gay League, set out that Vilnius City Municipality Administration violated Article 10 of the Law on Assemblies as it establishes that a notification about the organisation of a meeting must be considered no later than within 3 working days from the receipt thereof and no later than 48 hours prior to the beginning of the meeting. The last day to consider the said notification and make a decision was 9 October 2007, but the interested party, Vilnius City Municipality Administration, in the sitting of 9 October 2007, did not announce the decision regarding the approval of the meeting and did not provide a written reply with reasons to the appellant. The reply was only posted on 12 October 2007. On the basis of the

material of the case it has been established that the appellant's notification about the organisation of the meeting was received on 4 October 2007 and the reply was provided on the following day, i.e., on 5 October 2007. Since construction work was taking place at the location specified by the appellant, the letter No. A51-(12.26-VTD-5)-19463 of 5 October 2007 of the Safe City Department (Public Order Division) of Vilnius City Municipality Administration informed the appellant about these circumstances and, pursuant to Article 10 Paragraph 3 of the Law on Assemblies of the Republic of Lithuania, stated that a sitting would be held where proposals regarding the change of the place and time would be discussed. The chamber of judges believe that the appellant erroneously identifies the sitting of 9 October 2007 with decision No. A51-19649-(3.24-PD-4) of 9 October 2007 by Vilnius City Municipality Administration, whereby the appellant was refused a certificate approving the place, time, and form of the place of the meeting. The sitting cannot be equated with the written decision No. A51-19649-(3.24-PD-4) of 9 October 2007 that was duly substantiated by providing all the circumstances and reasons for the refusal to issue the certificate. In the light of the above, the chamber of judges held that the appellant's argument was unfounded and therefore must be rejected, because the interested party, Vilnius City Municipality Administration, observed all the terms prescribed by the Law on Assemblies of the Republic of Lithuania and in due time provided to the appellant a substantiated decision regarding the refusal to issue a certificate approving the place, time, and form of the meeting.

By passing the contested ruling, the Court of First Instance did not establish that the refusal of Vilnius City Municipality Administration to issue a certificate approving the place, time, and form of the place of the meeting violated human rights and freedoms entrenched in international human rights documents. The chamber of judges noted that Vilnius City Municipality Administration did not prohibit the appellant's campaign; it only refused to issue a certificate in order to ensure the safety of people. Having assessed all the circumstances, the interested party stated that, due to the campaign, public disturbances or various other violations of public order might arise. Such conclusions were made because, during the planning of similar campaigns, the interested party received information about protests and possible public disturbance, therefore, the chamber of judges acknowledged that it was justifiably expected that the meeting organised by the appellant would result in a similar negative reaction from the public. The appellant's argument that Vilnius City Municipality Administration had to ensure public order and safety during the event must also be rejected. Article 9 of the Law on Assemblies of the Republic of Lithuania stipulates that the written request of the organisers must specify their wishes to the police regarding maintenance of public order; however, it does not

mean that Vilnius City Municipality Administration must undertake to ensure public order, because this is not within the area of its competence.

The chamber of judges also notes that the campaign *We Are for All Colours of Life* was scheduled in Rotušės Square for 25 October 2007. Since this date has already passed, it is not possible to satisfy the appellant's request and issue a certificate regarding the approval of the place, time, and form of the meeting. Since the appellant's, the public organisation's the Lithuanian Gay League, separate appeal provides no grounds to set the ruling of 24 October 2007 of the First Vilnius City Local Court aside or amend it, the decision shall be upheld (Article 337 Paragraph 1 of the Code of Civil Procedure of the Republic of Lithuania).

In conformation with Article 336, 337 Paragraph1, and 339 of the Code of Civil Procedure, the chamber of judges has passed the following.

RULING:

To uphold the ruling of the First Vilnius City Local Court dated 24 October 2007 in the Civil Case No. 2-15317-101/2007.

Chairman of the Chamber

Algirdas Auruškevičius

Judges of the Chamber

Danutė Kutrienė

Rasa Gudžiūnienė

Appendix 3

Administrative Case No. I-876-437/2009
Category of the procedural document: 38

DECISION ON BEHALF OF THE REPUBLIC OF LITHUANIA

Vilnius
13 May 2009

The chamber of judges of Vilnius District Administrative Court composed of Raimondas Blauzdžius (chairman of the chamber and the rapporteur), Rūta Miliuvienė, Veslava Ruskan, and Rasa Tebėraitė (the secretary), in the presence of the petitioners' representatives Vladimiras Simonko and Eduardas Platovas, the defendant's representative Vytis Muliulis, and the representative of the third interested party Aistė Račkauskaitė, in the public hearing of the court heard the appeal of the association the Lithuanian Gay League against the defendant, the Office of Equal Opportunities Ombudsman, the third interested parties Jolanta Samuolytė, and Vilnius City Municipality Administration regarding setting aside of a decision and authorising actions to be performed and

HAS ESTABLISHED:

The petitioner, the association the Lithuanian Gay League, on 5 January 2009 appealed (pages 2–10 of the case) to Vilnius District Administrative Court requesting that decision No. (08)-SN-154 of 28 November 2008 of the Office of Equal Opportunities Ombudsman “Regarding investigation of the complaints of Jolanta Samuolytė and the association the Lithuanian Gay League” should be set aside and that the defendant should be authorised to reinvestigate the petitioner's complaint and satisfy its

requirements. It is explained that pursuant to the contested decision of the defendant, the Office of Equal Opportunities Ombudsman, the complaints of Jolanta Samuolyte and the petitioner were not considered. The decision was recorded in the form of the notification-letter of 28 November 2008. It is explained that on 7 November 2008, the petitioner lodged a complaint with the defendant requesting the following: 1) pursuant to Article 14 Paragraph 1 of the Law on Equal Treatment, Article 24 Paragraph 1 Subparagraph 3 of the Law on Equal Opportunities for Men and Women, and Article 41⁶ Paragraph 1 of the Code of Administrative Law Offences, to recognise that Juozas Imbrasas, mayor of Vilnius; Gintautas Paluckas, director of Vilnius City Municipality Administration; and the Vilnius City Council infringed Article 5 Paragraph 1 Subparagraphs 1, 2, and 3 of the Law on Equal Treatment and to impose the maximum fine prescribed in Article 41⁶ Paragraph 1 of the Code of Administrative Law Offences (LTL 2,000) on the said institutions (officials) for violations of the provisions of equal treatment; 2) by virtue of Article 14 Paragraph 1 of the Law on Equal Treatment and Article 24 Paragraph 1 Subparagraph 6 of the Law on Equal Opportunities for Men and Women, to issue a warning to Juozas Imbrasas, mayor of Vilnius; Gintautas Paluckas, director of Vilnius City Municipality Administration; and the Vilnius City Municipality Council regarding serious infringements of the Law on Equal Treatment and require that they should observe the provisions of this law in the future; 3) pursuant to Article 14 Paragraph 1 of the Law on Equal Treatment and Article 24 Paragraph 1 Subparagraph 6 of the Law on Equal Opportunities for Men and Women, to submit Vilnius City Municipality Council a proposal to overrule the provisions of Clause 35.3.5 of the Rules for Clearing and Cleaning adopted by decision No. 1-582 of 16 July 2008 of Vilnius City Municipality Council that contravene the Law on Equal Treatment and that establish that “a decision can be made to deny a permit for events during which, in the opinion of the police or the commission, a public disturbance may arise or events, given the nature of the event, could cause a negative reaction from the public or opposition or some objective findings or other information has been obtained (written information is received about the events already organised and their negative consequences, public opinion polls have been carried out regarding the planned events, etc.) regarding possible violations. Such events may be organised only in enclosed spaces so that the safety of both the participants and the spectators can be ensured”. In its complaint to the defendant, the petitioner pointed out specific actions (inaction), which, in the petitioner’s opinion, showed that the appellee–municipal institutions (Juozas Imbrasas, the mayor of Vilnius; Vilnius City Municipality Administration, and Vilnius City Municipality Council)–failed to fulfil their duties. Article 10 of the Law on Equal Treatment

stipulates that violation of equal treatment is considered failure to fulfil or to fulfil inappropriately the established duties or failure to observe prohibitions, that any complaints regarding violations of equal treatment should be submitted to the Equal Opportunities Ombudsman (Article 15 Paragraph 1 Law on Equal Treatment) and investigated, and that a decision should be passed pursuant to the procedure prescribed in the Law on Equal Opportunities for Men and Women of the Republic of Lithuania (Article 15 Paragraph 2 of the Law on Equal Treatment). On this basis, a complaint was lodged with the defendant on 7 November 2008. It is construed that on no legal grounds and by violating procedural requirements established in the law, the defendant did not consider the petitioner's complaint. Article 18 Paragraph 1 of the Law on Equal Opportunities for Men and Women stipulates that each natural person or legal entity has the right to lodge a complaint with the Equal Opportunities Ombudsman regarding violation of equal treatment. If the defendant established that the petitioner was not the entity eligible to lodge a complaint regarding violation of the Law on Equal Treatment, it would have, as early as in the stage of the receipt of the complaint, refused to investigate the petitioner's complaint. However, the petitioner's complaint was investigated in substance. It is claimed that while the complaint was being investigated, procedural violations were made. Pursuant to Article 21 of the Law on Equal Opportunities for Men and Women, the grounds for the refusal to investigate the complaint are set. Once the reason for the refusal is established, the Equal Opportunities Ombudsman refuses to investigate the complaint and no later than within 15 days returns the complaint to the applicant. Should no grounds for the refusal be established, the complaint is investigated in substance and after the investigation, one of the decisions prescribed in Article 24 of the Law on Equal Opportunities for Men and Women is made. In this case, the defendant investigated the petitioner's complaint in substance, yet in adopting the contested decision, the defendant specified Article 14 of the Law on Equal Treatment and Article 21 Paragraph 4 of the Law on Equal Opportunities for Men and Women as a procedural basis, pursuant to which the Equal Opportunities Ombudsman refuses to investigate a complaint and no later than within 15 days returns it to the applicant if a complaint on the same issue has been investigated, if it is being investigated in court, or pursuant to the law must be investigated in court. By virtue of the said regulation, the petitioner's complaint lodged on 7 November 2008 could be declined and within 15 days, i.e., no later than by 22 November 2008, returned to the petitioner, but it was accepted for investigation and as a result of investigation a decision was adopted on 28 November 2008. The duty of municipality institutions and agencies, pursuant to Article 5 of the Law on Equal Treatment, is to implement equal treatment. By appealing to the

defendant regarding violation of the Law on Equal Treatment, the petitioner specified that Vilnius City Municipality Administration did not fulfil its duty to ensure equal treatment regardless of the person's sex, race, nationality, language, origin, social position, belief, convictions, age, sexual orientation, disability, ethnic origin, or religion, i.e., by refusing to issue a permit to organise a public event, it discriminated against certain groups specified in the Law on Equal Treatment. The complaint was based on violations of the Law on Equal Treatment. The defendant did not even investigate the petitioner's complaint to the said extent, however, it did not try to identify whether the actions of Vilnius City Municipality Administration contravened the regulations of the Law on Equal Treatment specified by the petitioner, reasoning that, pursuant to Article 13 of the Law on Assemblies, the refusal to issue a certificate concerning the approved place and form of the meeting must be heard in court and that UAB Integrity PR, the organiser of the meeting, had the right to appeal against the refusal. It is believed that there are various contradictions in the contested decision. In addition, even though the petitioner's complaint regarding the actions of Vilnius City Municipality Administration and the mayor of Vilnius was not investigated, by issuing the contested decision, the defendant proposed that the city of Vilnius should discuss the issue of reviewing the provisions of the Rules for Clearing and Cleaning adopted by Vilnius City Council on 16 July 2008 and disputed by the petitioners.

During the court hearing, the petitioner's representatives supported the complaint on the basis of its motives.

In response (pages 79–82 of the case) to the petitioner's complaint, the defendant, the Office of Equal Opportunities Ombudsman, requested that the complaint should be set aside as unfounded. It was explained that the circle of entities that are entitled to submit complaints regarding violations of the Law on Equal Treatment is defined *not* by the Law on Equal Opportunities for Men and Women, but by Article 12 of the Law on Equal Treatment, on the basis of which the petitioner was recognised to be an entity that could not lodge a complaint regarding violations of the Law on Equal Treatment (on the basis of which the petitioner grounded its complaint). According to Article 12 Paragraph 1 of the Law on Equal Treatment, a natural person who believes that his equal opportunities were violated may submit an appeal to the Equal Opportunities Ombudsman, whereas paragraph 2 of the same article establishes that associations or other legal entities whose activities of defending people discriminated on a certain basis or representing them in court are specified as one of the activities of the legal entity prescribed in the laws, including representation of a discriminated person in legal and administrative proceedings as authorised by that person. Neither Jolanta Samuolytė

nor the Lithuanian Gay League contacted Vilnius City Municipality Administration regarding a permit for the event “For Diversity. Against Discrimination” on 20 August 2008. The application for the said permit was submitted by the organiser of the event, UAB Integrity PR, and the programme of the event submitted to Vilnius City Municipality Administration did not include any campaigns of the Lithuanian Gay League. The petitioner did not provide any documents that would confirm its right to represent the interests of UAB Integrity PR in legal or administrative proceedings or documents confirming that the legal act regulating the activities of association includes defending people discriminated on a certain basis or representing them in court. In concordance with Article 12 of the Law on Equal Treatment, it is therefore considered that the petitioner is an entity not eligible to lodge a complaint regarding violations of the Law on Equal Treatment related to the event of 20 August 2008 organised by UAB Integrity PR.

Having refused to start any pre-trial investigation regarding Jolanta Samuolytė’s complaint, Vilnius Area Prosecutor’s Office passed the material of the complaint to the defendant. Since, pursuant to the material of the complaint provided by Jolanta Samuolytė, there was a lack of documents for an appeal against the decision of Vilnius City Municipality Administration and no sufficient grounds to state that the petitioner’s complaint was acceptable, the Equal Opportunities Ombudsman contacted Vilnius City Municipality Administration regarding the documents related to organisation of the event of 20 August 2008, i.e., the Ombudsman’s Office started an investigation of the complaint. During the investigation of the complaint of Jolanta Samuolytė, a complaint from the petitioner was lodged regarding the same decisions of Vilnius City Municipality Administration. Pursuant to Article 15 Paragraph 2 of the Law on Equal Treatment and Article 23 Paragraph 2 the Law on Equal Opportunities for Men and Women, the investigations of the complaints of Jolanta Samuolytė and the petitioner were therefore joined into one. Article 21 Paragraph 1 Subparagraphs 1–5 of the Law on Equal Opportunities for Men and Women sets out the cases when the Equal Opportunities Ombudsman is to refuse to investigate a complaint and no later than within 15 days return it to the applicant. Since the investigation was under way, according to Article 21 Paragraph 1 of the Law on Equal Opportunities for Men and Women, the Equal Opportunities Ombudsman did not have any right to pass a decision returning the complaint to the applicant, yet, according to Article 21 Paragraph 4 of the Law on Equal Opportunities for Men and Women, the Equal Opportunities Ombudsman had the right to not consider the complaint if in the course of investigation circumstances specified in Article 21 Paragraph 1 are identified, which was the case. The pe-

petitioner submitted an electronic message sent by J. Šartuch, an officer of the Office of the Equal Opportunities Ombudsman, who expressed support for the campaign “For Diversity. Against Discrimination” and stated that the organisers of the event should appeal against the unsatisfying decisions of Vilnius City Municipality Administration, yet this does not mean that the Equal Opportunities Ombudsman had an obligation to pass decisions favourable to the petitioner. The complaint of Jolanta Samuolytė was passed to the office after the Vilnius Area Prosecutor’s Office had declined to start any pre-trial investigation. The notification letter No. (08)-SN-154 of 28 November 2008 of the Office of Equal Opportunities Ombudsman specifies that according to Clause 9 of the Office of Equal Opportunities Ombudsman’s code of procedure approved by the Seimas (Parliament) of the Republic of Lithuania by resolution No. IX-1827 of 18 November 2003, the office cannot investigate whether the procedural decisions of prosecutors or pre-trial officials are lawful and substantiated. A reply is provided considering the requirement set out in the petitioners’ complaints to assess the actions of the authorities and officials of the city of Vilnius within the context of the provisions of the Criminal Code and, if any evidence of the likely criminal acts is identified, to pass the research material to a pre-trial investigation agency or a prosecutor. The petitioner’s statement regarding the complaint related to the opinion voiced by Juozas Imbrasas, the mayor of Vilnius, with respect to D. Šaluga, director of the Public Order and General Matters Department of Vilnius City Municipality Administration, is in no way related to the investigation of the complaint. In this case, entirely different relations existed between Imbrasas and Šaluga. In addition, the mayor’s critical statements concerning the employee of Vilnius City Municipality Administration who was on parental leave could have had a negative impact on other employees of the municipality who planned to take parental leave. Due to this, a possibility of violations of the Law on Equal Opportunities for Men and Women in employment was at issue, and the petitioner’s reference to a supposed precedent just because the complaints in both cases were lodged against one and the same entity, therefore has no legal basis. The petitioner unjustifiably considers that the notification letter No. (08)-SN-154 of 28 November 2008 of the Office of Equal Opportunities Ombudsman, which formulates a proposal to Vilnius City Municipality Administration to discuss the issue regarding the review of the disputed Rules for Clearing and Cleaning adopted by decision of 16 July 2008 of Vilnius City Municipality Council, is in any way in contrast to the decision of the Ombudsman to not consider the complaint. Article 21 Paragraph 2 of the Law on Equal Opportunities for Men and Women allows the Equal Opportunities Ombudsman to make proposals to state and municipal authorities of the Republic of Lithuania regarding the enhance-

ment of legal acts. This right does not obligate the Equal Opportunities Ombudsman to identify violations of the Law on Equal Opportunities for Men and Women or the Law on Equal Treatment prior to making the said proposal.

During the court hearing, the defendant's representative asked for the petitioner's complaint to be set aside on the basis of the reply to the complaint.

The third interested party, Vilnius City Municipality, by way of a reply (pages 175–180 of the case) asked to set the complaint aside as unfounded. It was explained that the third party agreed with the reasoning set out in the reply of the Office of the Equal Opportunities Ombudsman to the complaint submitted by the Lithuanian Gay League. It was explained that, pursuant to Article 12 of the Law on Equal Treatment, the defendant justly stated that it was not clear on what grounds the petitioner lodged a complaint with the Equal Opportunities Ombudsman regarding the refusal to issue a permit. Article 12 of the Law on Equal Treatment stipulates that a person who believes that his equal opportunities were violated has the right to appeal to the Equal Opportunities Ombudsman. Paragraph 2 of the said article stipulates that associations or other legal entities delegated by a discriminated person may in the manner prescribed in the law represent that person in judicial and administrative institutions. Neither Jolanta Samuolytė nor the association the Lithuanian Gay League asked for a permit from Vilnius City Municipality Administration to organise the event *For Diversity. Against Discrimination* on 20 August 2008. It was the organiser of the event, UAB Integrity PR, that filed a request to organise the said event and the programme submitted to Vilnius City Municipality Administration did not include any campaigns by the association the Lithuanian Gay League. In addition, the Lithuanian Gay League did not provide any documents that would confirm their right to represent the interest of UAB Integrity PR in judicial or administrative institutions, nor did it provide any documents attesting that the legal acts that regulate the activities of the Lithuanian Gay League include defence or representation in court of people discriminated against on any grounds as one of the activities of the association. The single circumstance that it was ineligible to file a complaint with the Equal Opportunities Ombudsman was a sufficient basis not to consider the complaint. All other arguments of the petitioner are of no legal importance since the petitioner is an entity that is not eligible within the meaning of Article 12 of the Law on Equal Treatment to file a complaint. The defendant is deemed not to have committed any procedural violations. In this case, the Equal Opportunities Ombudsman should have applied Article 21 Paragraph 1 Subparagraph 4, which stipulates that a complaint should not be considered by the Equal Opportunities Ombudsman if according to the law it must be investigated in court. It is asserted that decision No. A51-

18002(12.26-SM4) of 14 August 2008 of Vilnius City Municipality Administration to refuse to issue a permit/certificate to UAB Integrity PR regarding the approved place, time, and form of the event is legitimate.

The third interested party, Jolanta Samuolytė, by way of reply to the complaint (pages 141–143 of the case), asked for the complaint to be satisfied and explained that—having found out that for the second time in a row the EU Truck of Tolerance *For Diversity. Against Discrimination* could not fulfil its mission in Vilnius of distributing information to the inhabitants of Lithuania about their rights and organising events devoted to the encouragement of tolerance among various social groups because Vilnius City Municipality Administration did not issue a permit to organise a public campaign—in defence of the public interest, filed a request on 4 September 2008 with the chief prosecutor of the Special Investigation Unit at the Prosecution Service of the Republic of Lithuania asking for assessment of the actions of the Vilnius City Municipality Administration and the mayor of this municipality. On 10 September 2008, the Prosecution Service of the Republic of Lithuania forwarded the request to the chief prosecutor of Vilnius City Local Prosecution Service. On 17 September 2008, Vilnius City Local Prosecution Service forwarded the request to the Office of the Equal Opportunities Ombudsman. On 23 September 2008, the Equal Opportunities Ombudsman informed Prosecution Service of the Republic of Lithuania that it passed the request for information to the Prosecution Service of the Republic of Lithuania since signs of criminal activity, i.e., discrimination (Article 169 of the Criminal Code), were identified. On 26 September 2008, the Vilnius City Local Prosecution Service informed that with respect to the application of 4 September 2008 the decision was made to refuse to start a pre-trial investigation. The prosecutor based his refusal on the fact that remedy against the decisions of the mayor of the city of Vilnius or the municipal administration (including the decision to refuse to issue a permit for the proposed event) must be sought following administrative procedure, and therefore the application regarding administrative prosecution of the actions of the employees of Vilnius City Municipality Administration (pursuant to Article 41⁶ *Code of Violations of Administrative Law* of the Republic of Lithuania) was, according to the area of jurisdiction, forwarded for investigation to the Chief Police HQ of First Police Unit of Vilnius City. On 7 October 2008, the Vilnius City Local Prosecution Service resent Jolanta Samuolytė's complaint to the Office of Equal Opportunities Ombudsman for investigation according to the area of jurisdiction. Jolanta Samuolytė never approached the defendant with the complaint. Jolanta Samuolytė asserted that she had doubts about the defendant's reasoning why the public statements of Juozas Imbrasas, the

mayor of Vilnius, could not be qualified as incitement or instruction to discriminate. The Office of Equal Opportunities Ombudsman noted that the public statements of politicians or other state or municipal officials or the expression of public opinion were not regulated by the Law on Equal Treatment. However, Article 2 Paragraph 1 of the Law on Equal Treatment states that the grounds for discrimination, among others, include instruction to discriminate on the ground of sexual orientation. It is asserted that the public statements of politicians that incite discrimination or instruct others to discriminate also do not fall under those cases when the Law on Equal Treatment is not applied as stipulated in Clause 3 of the law.

The complaint must be dismissed. It was established that on 21 July 2008 UAB Integrity PR (page 101 of the case) filed an application with Vilnius City Municipality Administration asking for a permit to organise an event. The application included a request to park the EU Truck of Tolerance *For Diversity. Against Discrimination* and an auxiliary truck on the road at the main entrance to Rotušės Square on 20 August 2008. The application also noted that the trucks would arrive at noon on the said date and leave at 11:00 p.m. During their stay in the square, the team of the truck would demonstrate their programme related to tolerance and equal rights observed in ten EU member states. The Public Order Division (Safe City Department) of Vilnius City Municipality Administration, pursuant to its decision No. A 51-17180 (12.26-SM4) of 1 August 2008, rejected the application. On 4 August 2008, an amendment to the application of UAB Integrity PR was filed with Vilnius City Municipality office (page 105 of the case). It said that the location of the event was to be changed to the parking lot in J. Lelevelio Street next to the Opera and Ballet Theatre. On 14 August 2008, the Public Order Division (Safe City Department) of Vilnius City Municipality adopted decision No. A51-18002(12.26-SM4) (page 106 of the case) to refuse to issue the permit/certificate. The first decision contained a proposal to change the place of the event by moving it to location with better conditions to ensure the safety of the participants, spectators, and other persons. Among the locations, Kalnų Park Stadium, Žalgiris Stadium, and other enclosed location were proposed. Both decisions were based on Clauses 35.3.1 and 35.3.5 of the Rules for Clearing and Cleaning approved by decision No. 1-582 of 16 July 2008 of Vilnius City Municipality Administration, because in the locations requested by UAB Integrity PR violations of the safety of the state and the community, public order, the health and morals of the public, and the rights and freedoms of other people might occur. In addition, the second decision said that objective data was available that during the event an unplanned campaign might take place, which, by its nature, could cause violations of public order, the negative reaction of the public, resistance, or

even a public disturbance. This statement was based on publicly available information that during the event unsanctioned actions might be possible. The petitioner, the association the Lithuanian Gay League, on 7 November 2008, lodged a complaint (pages 49–58 of the case) with the defendant asking the following: 1) pursuant to Article 14 Paragraph 1 of the Law on Equal Treatment, Article 24 Paragraph 1 Subparagraph 3 of the Law on Equal Opportunities for Men and Women, and Article 41⁶ Paragraph 1 of the Code of Administrative Law Offences, to recognise that Juozas Imbrasas, mayor of Vilnius; Gintautas Paluckas, director of Vilnius City Municipality Administration; and the Vilnius City Council infringed Article 5 Paragraph 1 Subparagraphs 1, 2, and 3 of the Law on Equal Treatment and to impose the maximum fine prescribed in Article 41⁶ Paragraph 1 of the Code of Administrative Law Offences (LTL 2,000) on the said institutions (officials) for violations of the provisions of equal treatment; 2) by virtue of Article 14 Paragraph 1 of the Law on Equal Treatment and Article 24 Paragraph 1 Subparagraph 6 of the Law on Equal Opportunities for Men and Women, to issue a warning to Juozas Imbrasas, mayor of Vilnius; Gintautas Paluckas, director of Vilnius City Municipality Administration; and the Vilnius City Council regarding serious infringements of the Law on Equal Treatment and require that they should observe the provisions of this law in the future; 3) pursuant to Article 14 Paragraph 1 of the Law on Equal Treatment and Article 24 Paragraph 1 Subparagraph 6 of the Law on Equal Opportunities for Men and Women, to submit Vilnius City Council a proposal to overrule the provisions of Clause 35.3.5 of the Rules for Clearing and Cleaning adopted by decision No. 1-582 of 16 July 2008 of Vilnius City Council that contravene the Law on Equal Treatment and that establish that “a decision can be made to deny a permit for events during which, in the opinion of the police or the commission, a public disturbance may arise or events, given the nature of the event, could cause a negative reaction from the public or opposition or some objective findings or other information has been obtained (written information is received about the events already organised and their negative consequences, public opinion polls have been carried out regarding the planned events, etc.) regarding possible violations. Such events may be organised only in enclosed spaces so that the safety of both the participants and the spectators can be ensured”. The material of the case confirms that the petitioner’s complaint submitted to the defendant was received during the consideration of Jolanta Samuolytės’ complaint. On 28 November 2008, the defendant, the Office of the Equal Opportunities Ombudsman, adopted a decision in the form of notification letter No. (08)-SN-154 to refuse to consider the complaints of the petitioner and Jolanta Samuolytė, pursuant to Article 14 of the Law on Equal Treatment and Article 21 Paragraph 4 of the Law on Equal Op-

portunities for Men and Women, and to submit to Vilnius City Municipality Council a proposal to review the provisions of the Rules for Clearing and Cleaning adopted by decision of 16 July 2008 of Vilnius City Municipality Council and contested in the petitioners' complaints. The defendant assessed the fact that the petitioner was an entity that was not eligible to lodge a complaint regarding violations of Article 12 of the Law on Equal Treatment. In its decision, the defendant stated that the issue raised in the complaints and related to the public statements of Vilnius Mayor Juozas Imbrasas that could be understood as an incitement or an instruction to discriminate must not be considered at the Council, since the public statements of politicians or other state or municipal officials or expression of personal opinion do not fall under the regulations of Article 5 of the Law on Equal Treatment, which establishes the duties of state and municipal authorities according to this law. The defendant's decision was justified. Article 12 Paragraph 1 of the Law on Equal Treatment stipulates that a person who believes that his equal opportunities were violated may lodge an appeal with the Equal Opportunities Ombudsman. Pursuant to this article, the individual who personally suffers violation of equal treatment may lodge a complaint with the defendant. Article 12 Paragraph 2 of the Law on Equal Treatment stipulates that associations or other legal entities may, with the authorisation of the person who was discriminated against, represent him/her in judicial and administrative institutions in the manner prescribed by the law. It follows from the evidence given by witnesses L. Rimkutė, M. Jankauskaitė, J. Gužaitė-Kvintus, and J. Šartuch during the court hearing that the issue of the denial of the permit was discussed at a special work group; information was provided that the official from the European Commission would not lodge a complaint against the decision of Vilnius City Municipality Administration; and it was discussed that non-governmental organisations must defend their rights themselves since the petitioner was a member of this work group. The presence of such a discussion does not create premises for legal representation, however.

Neither the association the Lithuanian Gay League nor the third interested party, Jolanta Samuolytė, contacted Vilnius City Municipality Administration regarding a permit for the event *For Diversity. Against Discrimination* on 20 August 2008. The application for the said permit was submitted by UAB Integrity PR and the programme of the event submitted to Vilnius City Municipality Administration did not include any campaigns of the Lithuanian Gay League (pages 101–102 of the case). The defendant justly noted that public statements of politicians or other state or municipal officials or an expression of public opinion were not regulated by Article 5 of the Law on Equal Treatment. The court also noted that in terms of the subject of the case, the defendant's

decision was lawful and substantiated. The court did not investigate the legitimacy of the refusal of Vilnius City Municipality Administration to issue a permit for UAB Integrity PR and did not speak out on this issue. In the contested decision the defendant correctly stated that UAB Integrity PR, as the organiser of the event, had the right to appeal in the prescribed manner against the decision of Vilnius City Municipality Administration to refuse the permit. By lodging a complaint with the Equal Opportunities Ombudsman, the petitioner, in essence disputed the decision of Vilnius municipal government to issue a permit. However, appeal against such actions of municipal government is attributed by the law to the court's jurisdiction. Therefore, the Equal Opportunities Ombudsman had to follow Article 21 Paragraph 1 Subparagraph 4 of the Law on Equal Opportunities for Men and Women that establishes that the complaint must not be considered by the Equal Opportunities Ombudsman if, pursuant to the law, it must be investigated in court.

The petitioner states in the complaint that the defendant missed the term specified in Article 21 Paragraph 1 of the Law on Equal Opportunities for Men and Women that provided that in case of a refusal to investigate a complaint, the complaint no later than within 15 days was to be returned to the applicant. However, Jolanta Samuolytė's complaint was forwarded to Equal Opportunities Ombudsman from Vilnius City Local Prosecution Service, after the Service had declined to start a pre-trial investigation with respect to the complaint and the material of the complaint was passed for consideration to the Office of Equal Opportunities Ombudsman according to its competence. The petitioner's complaint was received in the course of the investigation. In addition, when the investigation started, it was established that the pleas prescribed in Article 21 Paragraph 1 Subparagraph 4 of the Law on Equal Opportunities for Men and Women did exist, therefore the Equal Opportunities Ombudsman had the right to not consider the complaint. Therefore the court must reject the petitioner's arguments regarding the procedural violations.

Article 21 Paragraph 2 of the Law on Equal Opportunities for Men and Women allows the Equal Opportunities Ombudsman to make proposals to state and municipal authorities of the Republic of Lithuania regarding the enhancement of legal acts even if no violations have been committed. Therefore, in the court's opinion, it is unjustified for the petitioner to consider that the defendant's proposal in the contested decision to Vilnius City Municipality Administration to discuss the issue regarding the review of the disputed Rules for Clearing and Cleaning adopted by decision of 16 July 2008 of Vilnius City Municipal Council was in any way in contrast to the decision of the Ombudsman to not consider the complaint.

In conformation with Article 85–87, Article 88 Paragraph 1, and Article 127 Paragraph 1 of the Law on Administrative Proceedings of the Republic of Lithuania, the chamber of judges passed the following.

DECISION:

To dismiss the petition of the petitioner, the public organisation the Lithuanian Gay League, as unfounded.

The decision is subject to appeal with the Lithuanian Supreme Administrative Court via Vilnius District Administrative Court or directly within fourteen days from the pronouncement of the decision.

Chairman of the Chamber

Raimondas Blauzdžius

Judges of the Chamber

Rūta Miliuvienė
Veslava Ruskan