



LIETUVOS RESPUBLIKOS SEIMO KONTROLIERIŲ ĮSTAIGA
THE SEIMAS OMBUDSMEN'S OFFICE OF THE REPUBLIC OF LITHUANIA

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Dear Sir/Madam,

On 19 September 2013, Noris Liza-Doyen, Programme Assistant at the Office of the United Nations High Commissioner for Human Rights forwarded us your request for information on arbitrary detention. Although, we are not able to provide precise answers to your questions, we would like to present a general overview of the arbitrary detention in Lithuania as well as information on our investigative jurisdiction and work related to this particular sphere:

In Lithuania a unified national police force, under the jurisdiction of the Ministry of the Interior, is responsible for law enforcement. The State Security Department is responsible for internal security and reports to Parliament and the President. The Internal Investigation Division at the Police Department investigates, on the orders of the Minister of Interior, abuses committed by the police. Prosecutors and the Seimas Ombudsmen carry out independent investigations.

According to the Law on the Seimas Ombudsmen the legality and validity of procedural decisions of the prosecutors, pre-trial investigation officials are outside the Seimas Ombudsmen's powers of investigation, however, complaints about the actions of the prosecutors, pre-trial investigation officials, which violate human rights and freedoms fall within the investigative jurisdiction of the Seimas Ombudsmen (Law on the Seimas Ombudsmen, Article 12, Paragraph 3). E.g. on 24 October 2013 we have started an own-initiative investigation regarding potentially violated rights of a person who was arrested and had to spend 8 days in different police custodies without court decision.

Temporary detention of a person is an extreme measure, which can be applied only in exceptional cases. The fact that a person had been detained in police custodies for several times, indicates possible abuse of office by the officials and raises doubts whether in all cases it was necessary to apply detention. And that is what we will try to clear out during the started investigation.

Lithuanian law prohibits arbitrary arrest and detention, but provides for two methods by which individuals may be taken into police custody: temporary detention and pre-trial detention. It should also be noted that the law provides for the right to an attorney from the moment an individual is identified as a suspect.

Temporary detention may be imposed if: police catch a person committing a crime; police catch a person immediately after the person has committed a crime and police believes the person may flee the area or the police cannot determine the person's identity; or the situation would permit pre-trial detention. Police may hold a person in temporary detention for no longer than 48 hours, at the end of which the person must be taken to a judge if the person has not been released. During the period of temporary detention, the investigation official must prepare a

case report with the person's personal data and detention status, grounds for detention, and detention conditions and circumstances. The investigation official and the person have to sign the report.

Pre-trial detention is applied only in case of a pre-trial investigation and when there are following conditions: felony, risk of a flight, necessity of an unhindered investigation, etc. And it is imposed only when a person must be detained for more than 48 hours. A court must approve any pre-trial detention. A person can be held in pre-trial detention for no more than three months, but a court may approve an extension for a maximum of 18 months. During the pre-trial investigation phase, authorities will gather evidence against a person and determine whether to bring criminal charges. Authorities may question the accused person during this process, but the person has the right to remain silent. Moreover, he has the right to appeal to a higher court against the imposition or extension of detention.

In addition it should be mentioned that the Law on Reimbursement of Damage Caused by Illegal Actions by Public Authorities and Representation of the State as well as the Civil Code provide for liability for damage caused by the unlawful actions of pre-trial investigation officials, prosecutors, judges, and courts. If a person is found by a judge to have been unlawfully or otherwise arbitrarily deprived of his or her liberty, he/she has a right to seek redress:

- 1) By applying to the Ministry of Justice (non-judicial order);
- 2) By applying to court.

We do hope that the provided information will be of at least some use to you and you will be able to accomplish the task mandated to you by the Human Rights Council.

Sincerely,

Head of the Office



Augustinas Normantas