

Ombudsman of the Parliament of the Republic of Lithuania

2018-02-02 No. 4D-2017/1-1558/3D-317

To:

Attorney Rokas Rudzinskas

The Government of the Republic of Lithuania

The Center for the Study of the Genocide and Resistance of the Residents of Lithuania

The Human Rights Committee of the Parliament of the Republic of Lithuania

REGARDING THE REPORT AND THE HOLDING OF A DISCUSSION

The Office of the Ombudsman of the Parliament of the Republic of Lithuania has considered the appeal made by Grant Arthur Gochin through his attorney Rokas Rudzinskas on alleged bureaucratism by officials from the Center for the Study of the Genocide and Resistance of the Residents of Lithuania (hereinafter Center) in the consideration of his request of March 6, 2017. We send report no. 4D-2017/1-1588 by the parliamentary ombudsman which states that "There appears to be in the activities of the Center in the consideration of people's requests indications of systemic execution not in keeping with the requirements of law, therefore it is the opinion of the parliamentary ombudsman that in addition it would be sensible to hold a discussion of the activities of the Center in considering the requests and complaints of people with the parliamentary ombudsman, the director [of the Center] and other responsible employees of the Center and the Office of Ombudsman participating" (this and other quotes have not been corrected for grammar).

The Office of the Ombudsman of the Parliament of the Republic of Lithuania, based on article 19, section 1, point 21 ("1. The Parliamentary Ombudsman in carrying out his duties has the right: ... 21) ... may provide suggestions or observations to the appropriate institutions and agencies for improving public administration so that human rights and freedoms are not violated") requests the Center to provide by March 1, 2018, the information necessary for the discussion being planned by the parliamentary ombudsman on the Center's activities (the discussion is being planned for April of this year):

1) how many requests, complaints and appeals which should have been considered based on administrative procedure and the rules for considering requests, did the Center receive between 2016 and 2018, and how many of these were repeat complaints concerning requests (complaints or appeals) due to an inappropriate first reply or non-reply?;

2) how many times were replies made to requests and complaints from 2016 to 2018 outside the deadline established by law (including the reason for the late replies)?;

3) how many instances were there between 2016 and 2018 when people went to the High Commission for Administrative Complaints or court in connection with Center actions involving the consideration of requests and complaints (providing copies of decisions made by these institutions)?

Furthermore, we request you inform us in the manner established regarding the results of your consideration on the recommendations made by the parliamentary ombudsman in reports nos. 4D-2016/1-750, 4D-2017/1-1471 and 4D-2017/1-1558.

Please find attached 20 pages.

Augustinas Normantas

Parliamentary ombudsman

[signed]

Rosita Daunorè, tel. 706 65 145, email rosita.daunore@lrski.lt

Ombudsman of the Parliament of the Republic of Lithuania

REPORT

ON GRANT ARTHUR GOCHIN'S APPEAL

AGAINST THE CENTER FOR THE STUDY OF THE GENOCIDE AND RESISTANCE OF RESIDENTS OF LITHUANIA

February 2, 2018 No. 4D-2017/1-1558

Vilnius

I. BASIS OF COMPLAINT

1. The parliamentary ombudsman received a complaint from Grant Arthur Gochin (hereinafter Plaintiff) represented by attorney Rokas Rudzinskas about alleged bureaucratism [placing of bureaucratic obstacles] by the Center for the Study of the Genocide and Resistance of Residents of Lithuania (hereinafter Center) in considering [Gochin's] request of March 6, 2017 (hereinafter Request).

2. The complaint indicates:

2.1 "In March of 2017 we contacted the [parliamentary ombudsman] in writing, asking for an assessment of actions by Center director [Teresė Birutė Burauskaitė, hereinafter Director] and especially the formation of public opinion regarding the explanation of the concept of Holocaust crime. In our request we indicated that the official explanation provided by the Center contradicts article 6 of the Nuremberg Trial statute and United Nations law. The request ... was forwarded to the Center" (this and other quotes are not corrected for grammar).

"The director then provided a reply. To legal arguments on the flawed explanation of the concept of Holocaust crime in the letter of April 10, 2017 [No. 14R-32, hereinafter Reply], she responded with the argument no completely objective explanation of historical facts is possible, and provided an unsystematic six-page list of historiographic sources. Not a word was said regarding the issues raised by the Plaintiff."

2.2. "In light of the circumstances which have arisen, it seems the Center is avoiding dialogue with Lithuanian citizens, conceivably in the effort to defend what is essentially a flawed explanation of the legal relationship of participants in the crime of genocide. The interpretation of historical facts in this matter is of secondary importance. We would like to point out the

Center is an enterprise financed by the state budget whose activity in this case violates human rights and freedoms in the sphere of public administration, and more specifically, as defined in the law on public administration,

2.2.1. "the principle of objectivity, which signifies the adoption of administrative decisions and other official actions by a public administration entity must be unbiased and objective;"

"The Center's *interpretation and explanation* of historical circumstances is not objective. The assessment provided by the Center of behavior by participants in the crime of genocide (for example, in the conclusions on the actions of J. Noreika and K. Škirpa in World War II, hereinafter Conclusions) is not objective and is legally flawed;" "The Center's reply that 'all statements in the findings are supported by sources for every statement' is not objective;" "The Center essentially failed to respond to any of the issues posed, and treated the Plaintiff's Request as insignificant. In her Reply the Director said "if the Plaintiff doesn't trust the conclusions provided by Center historians, he may contact other Lithuanian academic and educational agencies." The statements provided here seem to show the Center refused to assess objectively the Plaintiff's request, whereas we are discussing the methods of action by an institution which provides official historical findings;"

2.2.2. "b) The principle of comprehensiveness, which signifies a public administration entity must respond clearly and rationally to a request or complaint, indicating all the circumstances which influenced the assessment of the request or complaint, and indicating all points of law which were taken into consideration in considering the request or complaint;"

"The Center in responding to the Plaintiff's request regarding the flawed explanation of the concept of the crime of genocide did not present any legal arguments objectively justifying the Center's position. We believe these actions by the Center not only violated the Plaintiff's right to receive an objective and comprehensive answer from the institution performing official historical research, but also violated the public interest in receiving objective information and an explanation of the concept of the crime of genocide such as the one provided in articles 2 and 3 of the December 9, 1948, Convention to Prevent and Punish Genocide.

3. The Plaintiff has asked the parliamentary ombudsman "to investigate the activities of the Center and its Director in connection with consideration of the Plaintiff's Request for an explanation of the crime of genocide, and to instruct the Center to provide an objective answer meeting the requirements of law."

INVESTIGATION AND CONCLUSION

4. From the documents provided together with the complaint it was determined:

4.1. The Request emphasizes "Historical events connected with the genocide of residents are ignored and distorted in Lithuania. It is especially regrettable this is done publicly and openly by institutions which mould public attitudes, therefore I request you to investigate the actions of the Center and its Director. I base my request on the following reasons," indicating:

4.1.1. "Article 2 of the Law on the Center for the Study of the Genocide and Resistance of the Residents of Lithuania [hereinafter Law] provides that the Center is a state enterprise which investigates all expressions of genocide and other crimes against humanity and war crimes, ... initiating the legal judgment of organizers and perpetrators of genocide. Article 4 of the law says that one of the tasks of the Center is the restoration of historical truth and justice ... The Center's job is the investigation of genocide in Lithuania in the 20th century and the provision of objective information to society about the murder of people of Lithuanian and Jewish ethnicity.

I believe the Director is carrying out her functions incorrectly, revising historical facts without foundation as they pertain to the events of the Holocaust, is interpreting subjectively extant and publicly accessible documents and providing unobjective findings to institutions and the public. These actions are connected with two findings of history examining the participation of J. Noreika and K. Škirpa in the genocide of the Jewish people in World War II. The Center prepared their findings in 2016."

4.1.2. "On the Finding regarding J. Noreika" [hereinafter Conclusion 1]:

4.1.2.1. "The report by the Genocide Research Center determined ... that before the Nazi occupation in June of 1941 Jonas Noreika served in the Lithuanian military court and held the rank of captain. On August 3, 1941, J. Noreika was appointed head of the Šiauliai district. They indicated that an order signed by Noreika on August 22, 1941, has survived ... addressed to the aldermen and town burgermeisters of the Šiauliai district and announcing that from August 25 to August 29 the Jews of the Šiauliai district should be removed to the ghetto in Žagarė and inventories of their abandoned property delivered to the head of the district [Noreika]. They indicated there survives an order signed by Noreika from September 10, 1943, ordering the liquidation of Jewish moveable property in the following manner: "a portion of property is to be guarded until a separate order is issued, a portion of the property is to be used for schools, rural districts, post offices, care facilities, hospitals and other institutions; a portion of the property is to be divided up for victims of the war and sold at auction." The money was supposed to be delivered to the district administration [headed by Noreika] treasury."

"In the findings the Director calls these orders 'letters,' thus softening the impact of the contents of the orders, and at the same time lessening Noreika's role in carrying out the isolation of Jews and property administration issues;"

4.1.2.2. "Historically, there were three ghettos operating in the Šiauliai district. Two were set up in the city of Šiauliai and by order of the Šiauliai district head on July 23, 1941, people of Jewish ethnicity living in the city and district of Šiauliai were moved there. The third was the in Žagarė ghetto. It was set up when the Šiauliai ghettos became too full. People were sent to this ghetto by order of Šiauliai district head Jonas Noreika issued on August 22, 1941. It is worth noting the Žagarė ghetto was not reorganized into a concentration camp as the other two Šiauliai ghettos were. In the city park of Žagarė on October 2, 1941, 2,236 people were shot (633 men, 1,107 women and 496 children). Noreika worked in a civilian institution, but this institution served the Nazis' aims, organizing the removal of people to the Žagarė ghetto and the confiscation and sale of their property. Noreika's order of September 10, 1941, said about the administration of confiscated Jewish property that it would be allocated to different public institutions (schools and etc.) and also to victims of the war.

"Historical documents show otherwise. The property and funds obtained from it were used in the service of Nazi military industry. An order is known from Noreika's district from the executive board of the Šiauliai district to the mayors of the surrounding towns and [rural] districts, promulgated on November 5, 1941, ordering the monies received from the sale of Jewish property to be deposited into the account of the gebietskommissar at the Reich Credit Bank in Šiauliai by November 15.

"The Center remains silent on these circumstances and documents in their finding. Speaking to Noreika's collaboration with the Nazi regime, the Director indicates in the finding that 'in the historiography the isolation and the mass murder of Jews is not considered the same thing,' 'driving the Jews into ghettos ... provided the Nazis the opportunity to go on to the murder of the Jews, i.e., to exterminated them as an undesirable race,' but there is no information about the fact Noreika was associated with the organization and execution of the mass murder of the Jews.

"This explanation of historical events distorts the objective truth and demonstrates an inability to come to terms with the events of the Holocaust. It's not understood at what point in Lithuanian 'historiography' collaboration in carrying out the Holocaust was distinguished from crimes against humanity. Although the roles might have differed, the actions were all aimed at a single goal. It's impossible to assess the formation of the ghettos and the seizure of Jewish property separately from the mass murders; these are parts of the crime called the Holocaust;

4.1.2.3. "In their finding of October, 2015, the Center indicated that 'information about J. Noreika's actions after the uprising, that is, at the end of June, 1941, is very fragmented, [but] in summary one can say that in July of 1941 captain Jonas Noreika had service ties with two institutions: the LAF organization of Telšiai and the kommandature of Plungė.'

"Attention is directed to the fact a shadow falls upon J. Noreika because of the order given to murder, issued in Plungė on July 13, 1941, when Noreika worked at the Plungė kommandature set up by the Nazis, i.e., before his assignment as head of the Šiauliai district.'

"Despite the circumstances which have been determined connecting Noreika with organizations known to have carried out the extermination of the Jewish people in the Šiauliai region (June and July, 1941), the Center in their finding states 'one must note that he could not have performed such functions because ... J. Noreika was in fact not an employee of the police structure, but rather an employee of a civilian institution and its head.' It is not understood why the Director of the Center, ignoring the evidence, without any further explanation, says Noreika in July of 1941 could not have issued the order to murder to the units of the LAF/kommandature to which he belonged;

4.1.2.4. "In Conclusion 1 the Center indicates that from June of 1941 Noreika engaged in active resistance to the Nazis. No evidence or arguments in support of this contention is provided in the finding. Neither did the Center define any resistance by Noreika to the Communist government on behalf of Lithuania. Noreika was sentenced to death at a military tribunal under article 1 of the criminal code of the Russian Soviet Federated Socialist Republic (treason against the homeland). The Supreme Court of Lithuania rehabilitated him of the charge in 1991. Why he was given a state award in the first degree is not known, nor is the reason indicated in Conclusion 1.

4.1.3. "On the Finding Regarding K. Škirpa" [hereinafter Conclusion 2]:

4.1.3.1. "The Center delivered a defensive speech as well in their finding on the actions of K. Škirpa. The Center's finding states K. Škirpa issued an announcement on March 19, 1941, to his fellow Lithuanians under occupation. Point 6 in the announcement read: 'Even now 'make representations' to the Jews that their fate has been sealed, and therefore whosoever is able, let them get out of Lithuania today in order to avoid unnecessary casualties. At the decisive moment to their property into your own hands so that nothing might perish for no reason.'

"At several points in their finding the Center stresses K. Škirpa proposed solving the Jewish problem through deportation. It's noteworthy the Center maintains silence on the detail of the orders issued in the March 24, 1941, document 'Orders for the Liberation of Lithuania': 'It is also very important to use this opportunity to rid ourselves of the Jews. ... The more who quit Lithuania on this occasion, the easier it will be later to finally rid ourselves of the Jews;' the Center also remains silent on another 1940-1941 document, Škirpa's address to Lithuanian Jews called 'On the Rescinding of Hospitality to the Jews,' which proclaims the 14th century right to safe haven issued by Vytautas the Great to the Jews is rescinded and says Jews who do not leave Lithuania together with the soldiers of the Soviet Union will be treated to battlefield justice [summarily executed]; deported from their lands and their property confiscated; or severely dealt with [summarily executed] in situ if they attempt to ruin their property. The Jews are told to harbor no illusions because there is no longer any place for them in Lithuania;

4.1.3.2. "Historically, K. Škirpa, a diplomat who withdrew from occupied Lithuania, lived in Berlin in 1940 and 1941. There he planned the liberation of Lithuania from Soviet oppression.

His best known contribution to Lithuania was the creation of the Lithuanian Activist Front (LAF) organization. K. Škirpa was the organization's founder, leader and main propaganda engine. The organization's goal (in reality) was a limited restoration of Lithuanian independence within Nazi Germany, and their task was to give aid to Nazi soldiers to drive out the Soviet government in June of 1941, using embedded and coordinated Lithuanian soldiers and civilians, the LAF units. ... From 1940 to 1943 K. Škirpa communicated in writing with people in the diplomatic corps throughout Europe. Detailed communiqués on LAF agent recruitment and attack strategy as well as their readiness to support Nazi soldiers in driving out Soviet forces are known to have been sent to Hitler himself and his secretary. ... The Center's finding doesn't present what impact K. Škirpa's anti-Semitic propaganda might have had, but quotes the historian L. Truska saying 'the LAF appeals were one of the reasons why some Lithuanians contributed in summer of 1941 to executing the criminal orders of the Nazis.' The Center in their finding fail to examine this aspect in more detail or to lend any significance to it, saying generally 'There were anti-Semitic expressions in the actions of the LAF organization under the direction of K. Škirpa.'

"The anti-Semitic propaganda of the LAF and its influence are softened in the Center's finding by explaining the contents of documents separately from the genocide of the Jews and the seizure of their property which began under the leadership of K. Škirpa's government. Conclusion 2 suppresses the causal relationship that getting rid of the Jews and seizing their property was one of the goals of the Provisional Government of Lithuania, as defined in the orders and addresses issued by K. Škirpa as the ideological foundations of the Provisional Government of Lithuania."

4.1.4. "On the Public Statements by the Director": "The actions by the Director enumerated is a revision of the events connected with the Holocaust, insulting Lithuanian citizens of Jewish ethnicity. This behavior transgresses the limits of free speech defined by the European Court of Human Rights and therefore it and similar expressions demand exceptional attention.

4.1.4.1. "Immediately following the publication of the finding on K. Škirpa on the internet, in a public statement on this issue the Director told the newspaper Lietuvos žinios that 'We have to realize K. Škirpa spoke the language of the time period in which he lived and spoke in a way so that his words would be understood by the people of that time. Therefore his somewhat harsh comments shouldn't be taken as absolutes...' She emphasized scholars who researched K. Škirpa's actions found no anti-Semitic actions in them. 'This person is really not a criminal whom we should marginalize in the footnotes of history.' Examining the statements of Conclusion 2 and the Director's speech, it appears to be the case that the Director is presenting false statements to the public regarding the anti-Semitic activities of K. Škirpa, in contradiction to the opinion of the historian L. Truska quoted in the Conclusion 2 finding;

4.1.4.2. "After the publication of Conclusion 1 the Director gave a statement to the foreign press. Asked 'why is it that the main research institution in the publications and books they publish speak very little or not at all about dark side of the forest brothers, and could the Center do more

to maintain a balance,' she replied: 'We have tried, but we have come up against influential resistance by conservative forces. There are several active organizations defending the memory of the partisans and they contact us whenever we show some less flattering aspects. I often receive letters from these people. And they have influential friends among politicians and high-ranking officials. These people attempt to affect the works by historians being published. In November, as the elections are coming up, it becomes ever harder to move ahead on the issue of a more balanced picture of our modern history;'

4.1.4.3. "After an active group of citizens presented a petition to the municipality for the removal of a plaque honoring Noreika in Vilnius, the Center on their Facebook profile on November 16, 2015, made the following response: 'Neighbors from the East [Russia] are organizing the desecration of Lithuanian patriots. They are being aided not just by some Jews, but by a sufficiently large number of Lithuanians: their surnames are written at the bottom of petitions to rescind an award, to take down a plaque, on libelous articles in the press... Some do this consciously, others out of stupidity.'

4.1.5. "Legal definition of genocide"

4.1.5.1. "Contributing to the legal codification of this crime was the statute adopted at the Nuremberg trials. It contains a definition of the criminal acts and lays down the principles of international law which were recognized universally in a resolution adopted by the General Assembly of the United Nations in 1946. Another extremely important document is the convention of December 9, 1948, on the prevention of the crime of genocide and criminal prosecution of genocide. Lithuania is a signatory to this convention. Under article 6 of the Nuremberg statute adopted in 1945, crimes against humanity include: murder, extermination, imprisonment, deportation and other inhumane acts against a civilian group before or during war. Leaders, organizers, inciters and helpers who have taken part in the drafting or execution of the general plan or conspiracy intended to commit any of the abovementioned crimes are responsible for all actions by all people attempting to implement such a plan. The criminal code of Lithuania also condemns people who organize, lead or participate in killing, torturing, harming, harming the mental development, deporting or otherwise creating living conditions so that all or part of them [such a civilian group] perish (article 99).

"The International Law Commission (ILC) of the United Nations has said that 'separate acts of the crime of genocide are by their very nature conscious, intentional and volitional acts which a person is unable to commit without understanding they likely will cause the corresponding results. These are not the type of acts which could be committed accidentally or as the result of carelessness.'

"The ILC provides the following explanation of the goal: 'The level of knowledge of the plan or policy details needed to commit the crime of genocide changes depending on the standing of the criminal within the governmental hierarchy or military structure. This doesn't mean that a

subordinate who indeed does carry out the plan or policy may not be considered guilty of the crime of genocide just because he didn't have the same degree of information about the plan or policy as his superior did. The crime of genocide requires knowledge of the final goal rather than knowledge of every detail of the policy or plan of genocide. It is considered true the subordinate understands his superior's intentions when he receives orders to carry out forbidden actions against people who belong to a specific group.'

"Considering the abovementioned legal acts and the findings by the Center, it must be said the Center in setting state policy in the field of historical research and setting these kinds of research methods and directions is violating article 99 of the Lithuanian criminal code, article 6 of the Nuremberg statute and the principles defining the nature of the crime of genocide determined by the United Nations;

4.1.5.2. "The Resistance Studies Center is a state institution which in conducting historical studies and presenting official findings forms civilian and institutional positions regarding the Holocaust and the genocidal events of the Lithuanian nation. The findings they provide should be objective. The abovementioned finds [Conclusions 1 and 2] testify to the fact the Director is explaining historical facts tendentiously, revising them, ignoring uncomfortable facts and evidence and failing to adjudge the voluntary contribution to genocide as a crime against humanity. The Center Director is advocating for participants (collaborators) in the genocide of the Jewish people, presenting in the Conclusions and the press statements in contradiction to historical documents, statements which have no supporting arguments and also speculate in difficult-to-prove assertions (i.e., might have/couldn't have, knew/didn't know), and emphatically exaggerating aspects in order to create a positive image of the individual. This kind of explanation and interpretation of historical facts is a distortion of history and genocide denial which misleads society, transgresses the limits of freedom of speech and encourages radical expressions of nationalism."

4.2. The parliamentary ombudsman in the March 15, 2017 letter no. 4D-2017/1-308/3D-744, forwarding the Plaintiff's Request to the Center, noted:

4.2.1. "It has been determined from the contents of the Request that the Plaintiff is making a complaint about the Center's actions in connection with the presentation of Conclusions about the actions of J. Noreika and K. Škirpa. The Request indicates the Center distorted historical events and did so publicly, giving rise to public attitudes. ***Thus the dispute between the Plaintiff and the Center concern factual circumstances in connection with the people mentioned in the complaint and an assessment of their actions, and therefore this dispute needs to be solved in court.*** It is noted that the Plaintiff in the complaint did not indicate how the Center's Conclusions regarding the actions of J. Noreika and K. Škirpa violated the Plaintiff's rights and freedoms in the sphere of public administration. ... Parliamentary ombudsmen consider plaintiffs' complaints regarding officials' abuse of office, bureaucratism and other violations of human rights and freedoms in the sphere of public administration and do not investigate disputes of law within the

sphere of public administration, just as they *do not investigate disputes concerning factual circumstances or historical circumstances*. It should be noted legal disputes in the field of administrative law are to be solved in the administrative court ... Therefore the Plaintiff has the right over one month from the issuance of a disputed act of law, an individual act of law or reporting of an action (or the refusal to take action) to go to the administrative court regarding the Center's actions and decisions adopted to appeal the Center's decision, and also to indicate in that appeal all the circumstances and arguments which are contained in this appeal, and thus defend his rights and legitimate interests ... ***Based on what has been explained and the fact the parliamentary ombudsman's jurisdiction does not include investigations of law or determination of factual (historical) circumstances, this complaint should not be considered by the parliamentary ombudsman.*** ... If the Center's actions and decisions violate the Plaintiff's honor and dignity and are untrue, the Plaintiff has the right under court process to demand a retraction of information publicized which do damage to his honor and dignity and are not true. Therefore the Plaintiff has the right to take to a court of general competence the matter of the Conclusions regarding the activities of J. Noreika and K. Škirpa if the Center's Conclusions in the belief of the Plaintiff are damaging to his honor and dignity and are untrue, and to defend his allegedly violated rights and legitimate interests [at such court]. An evaluation of the Center's Director, decisions regarding responsibility and the application (or non-application) of sanctions are related through legal labor relations with the jurisdiction of the prime minister and parliament, because the Center Director is appointed and dismissed by the parliament on the nomination of the prime minister... . It should be noted parliamentary ombudsmen do not consider complaints connected with legal labor relations

4.2.2. "...included with the Request is a copy of the Center's letter no. 13R-200 of July 2, 2015 (i.e., a reply made by the Center to the Plaintiff of more than one year ago). There is no information in the complaint nor is it clear from the contents whether the Plaintiff made written representation to the Center (and when exactly, if such was made) regarding the circumstances contained in this complaint, nor whether a reply was received from the Center. It should be noted there is a one-year deadline for making complaint to the parliamentary ombudsman from the commission of the actions being appealed or the adoption of decisions subject to complaint... . Complaints made beyond this deadline are not usually considered. In light of the fact there is no information on whether the Plaintiff contacted the Center regarding the circumstances contained in this complaint, nor is there any known official position by the Center regarding the circumstances indicated in the Request, it would be appropriate in mediating to contact the Center which would consider the complaint and provide an official position regarding the Plaintiff's questions.

4.2.3. "... I inform the Plaintiff that based on the law on the office of parliamentary ombudsman, article 17, section 1, points 3 and 6, under which the parliamentary ombudsman makes a decision to reject consideration of a complaint when investigation of the circumstances contained in the complaint do not fall under the jurisdiction of the parliamentary ombudsman, and comes to the

conclusion it would be appropriate for the circumstances indicated to be considered by a different institution or agency, I refuse to investigate the complaint, because the complaint should first be considered by the Center, and then if there is dispute over its answer by a court.

4.2.4. "Appreciating the important of the problem to the Plaintiff and based on article 19 section 1 of the law on the parliamentary ombudsman, ***I ask the Center under its competency to assess the circumstances indicated in the Request and to provide the Plaintiff a reasoned response...***

4.2.5. "... if new circumstances come to light which cause your right to good administration to be violated (for example, if the institution (or officials) do not provide a written response to your letter in the manner set down in law, if they refuse to solve the issue of your concern without foundation or unreasonably, or fail to provide explanations, additional information and documents, do not indicate the way to appeal the decision made, and so on), then you have the right to appeal to the parliamentary ombudsman again, indicating these new circumstances (and also providing any additional documents which bear on the issue)."

4.3. ***The Center provided the Plaintiff with a Reply containing the following:***

4.3.1. "The arguments contained in the Request are criticized for the following reasons.

The Plaintiff states: 'I am writing you to give notice historical facts connected with the genocide of residents are being ignored and distorted in Lithuania.'

We report the history of the Jewish genocide in Lithuania (1941-1944) has been researched for more than a decade now. Material from fundamental historical studies by Lithuania's researchers has been published in monographs and various other publications (a list of the Center's publications is appended)."

4.3.2. "The following statements by the Plaintiff are not based on any specific arguments: the Director of the Center is performing her functions in a flawed manner, revising historical facts regarding events of the Holocaust without foundation, subjectively interpreting surviving and publicly available documents and presenting biased findings to the public and institutions. The Plaintiff makes these statements based on the findings by Center historians examining the World War II activities of J. Noreika and K. Škirpa based on comprehensive and exhaustive research. We emphasize that every statement in these findings [Conclusion 1 and Conclusion 2] is based on sources which are referenced beside every statement."

4.3.3. "We would have no comments on the public statements made by the Director and quoted in the Request, except regarding the Facebook entry of November 16, 2015, ascribed to her. This text was not written in consultation with the Director and its author no longer works at the Center."

4.3.4. "It must be stressed that the Center is not the only institution in Lithuania studying the history of Lithuania in the 20th century. Historians from the Lithuanian History Institute, Vilnius

University and from other Lithuanian institutions of higher education are also studying this period. If the Plaintiff doesn't trust the findings presented by Center historians, he can approach other Lithuanian research and teaching institutions."

4.3.5. "Furthermore, we can remind the Plaintiff of the words of the April 2, 2009, resolution by the European Parliament on European conscience and totalitarianism: 'historians agree it is impossible to interpret historical facts completely objectively and that there is no completely objective historical presentation of these [facts];' 'no political institution or political party has the exclusive right to interpret history and these institutions or parties may not claim they are making objective interpretations.' We feel these words apply to the Plaintiff as well as the Center."

5. The parliamentary ombudsman having considered the circumstances above requests the Center:

5.1. to again, based on the constitutional principle "government institutions serve the people," the principles of administrative objectivity and comprehensiveness and the requirements of the principles for considering requests and complaints by individuals within public administration entities adopted by the Government of Lithuania on August 26, 2015, resolution no. 93 (hereinafter Rules for Considering Requests), consider the Request to the Center's ability and according to the contents of the Request, to provide the Plaintiff with a clear and reasoned answer (with a copy sent to the parliamentary ombudsman) to all the issues, arguments, problems and etc. he has raised, and indicating all circumstances which had an influence on the consideration of the Request and specific acts and articles of law which underlie consideration of the contents of the Request, and also providing reasoned explanations for the Center's position on every issue raised by the Plaintiff, regarding the circumstances indicated in the finding and cited by the Plaintiff:

5.1.1. In subsections 4.1.2.1.-4.1.2.4.: "The Director called the orders 'letters' in the Conclusions, thus softening the contents of these orders;" "Noreika's order of September 10, 1941, on the administration of confiscated Jewish property said the property would be allocated to different social enterprises (schools and so on), and to victims of the war. Historical documents show otherwise. ... The Center remains silent regarding these circumstances and documents in its conclusion;" "It's not understood at what point in the Lithuanian 'historiography' collaboration in carrying out the Holocaust is considered separate from crimes against humanity;" "It's not understood why the Center Director, ignoring the orders and without further explanation, claims Noreika in July of 1941 was unable to give orders for murder to the LAF/Komendature units to which he belonged;" "In Conclusion 1 the Center indicates that beginning in June of 1941 Noreika engaged actively in anti-Nazi activity. No further explanation or evidence for that is provided in Conclusion 1. Neither did the Center determine what contributions Noreika had

made to Lithuania in connection with resistance to the Communist regime;" "Why he was awarded a state award in the first degree is unknown, and the finding also fails to specify why;"

5.1.2. In subsections 4.1.3.1.-4.1.3.2.: "It's noteworthy the Center suppresses this circumstance about the document 'Orders for the Liberation of Lithuania' of March 24, 1941, ... which issued the following orders: 'It is very important to make use of this opportunity to rid ourselves of the Jews as well. ... The more of them who flee Lithuania this time, the easier it will be later to fully rid ourselves of the Jews;'" "The Center also remains silent on the document of 1940-1941 ...;" "The Center provides no conclusion regarding the possible effect of K. Škirpa's anti-Semitic propaganda, but does cite the historian L. Truska who says 'The appeals by the LAF were one of the reasons why some Lithuanians contributed to carrying out the criminal orders of the Nazis in the summer of 1941.' The Center in its finding does not consider this aspect and does not lend it significance;" "The Center's finding softens the effect of anti-Semitic propaganda from the LAF, explaining the contents of documents outside the context of the genocide of the Jews and the seizure of their property which began during the rule of the Škirpa government. The finding omits the causal relationship, that ridding the country of Jews and seizing their property was one of the goals of the Provisional Government of Lithuania;"

5.1.3. In subsection 4.1.4.: "This sort of behavior [by the Director] transgresses the limits of free speech defined by the European Court of Human Rights;"

5.1.4. In subsection 4.1.4.1.: "She underlines that researchers who have studied K. Škirpa's actions have discovered no anti-Semitic actions. ... The Director is presenting statements known to be false on the anti-Semitic activities of K. Škirpa to the public, in contradiction to the opinion of the historian L. Truska quoted in the finding;"

5.1.5. In subsections 4.1.5.1.-4.1.5.2.: "The Center, forming state policy in the field of historical research and setting the methodologies and directions of such research, is in violation of article 99 of the Lithuanian criminal code, article 6 of the Nuermberg statue and the principles defining the crime of genocide formulated by the United Nations;" "The Director is explaining historical facts tendentiously, is revising them, is ignoring uncomfortable facts and evidence, and is failing to assess voluntary contributions to genocide as a crime against humanity;" "The Director is advocating for participants (collaborators) in the genocide of the Jewish people and presenting claims in contradiction to the historical documents in the Conclusions and in the press which are not explained, and also speculate on hard-to-prove facts (i.e., might/might not have, knew/didn't know), and is highly exaggerating aspects which provide a positive image of the person;"

5.2. to provide rational explanations on why the Center did not address all the circumstances, issues, problems, arguments by the Plaintiff and so on in the Center's Reply.

6. The Office of Parliamentary Ombudsman additionally received a copy of a complaint made by the Plaintiff to the Human Rights Committee of the Parliament of the Republic of Lithuania in letter no. S-2017-10824 of November 30, 2017, addressed to speaker of parliament Viktoras Pranckietis in which [noting that the Director in her Reply emphasized that "no completely objective explanation of historical facts is possible," that "Together with a concise answer is included a long, 6-page unsystematic list of different historical sources (books and publications)"] is specified:

6.1. "We want to bring your attention to the fact the issue raised by the Plaintiff [in his Request] is not about the interpretation of historical events, but rather interpretation of the behavior of participants according to the principles set down in international law. Lithuania is signatory to *the December 9, 1948, [United Nations] convention ' Preventing and Punishing the Crime of Genocide'* [hereinafter Convention], article 2, 3 and 4 of which state: Action aimed at the total or partial destruction of a given national, ethnic, racial or religious group is considered genocide, namely, the murder of members of that group; ... *intentionally creating living conditions for that group which are aimed methodically at the physical destruction of all or part of that group, article 2 c); Punishable acts are: a) genocide ... c) direct and public agitation to genocide; ... e) collaboration in carrying out genocide.* People committing genocide or another act indicated in article 3 are prosecutable without regard to whether they are according to a constitution the responsible heads of state, officials or private people (article 4)."

"Lithuania is a signatory the agreement confirming the Nuremberg Trial statute of 1945 [hereinafter Statute], article 6 of which provides a corresponding legal judgment of the crime of genocide and parties to it. Article 8 further specifies that "the fact the accused acted in line with an order from government or his commander does not relieve him of responsibility, but this may be taken into consideration in considering a reduced punishment, if the Tribunal resolves this demands justice."

In jurisprudence the articles of the Convention are explained thusly: "if an accomplice knew or should have known about the intention held by the executor of exterminating a part of a group, then he is to be charged as an accessory to the crime of genocide, even if he himself had no genocidal intention" (United Nations Criminal Tribunal in Rwanda, case no. ICTR-96-4, paragraphs 540-541)."

6.2. *"The Center in its Conclusions on the actions of K. Škirpa and J. Noreika in World War II distorts the concept recognized in international law of participants in the crime of genocide."*

6.2.1. *"The Center in its official findings only assesses people according to directly carrying out the crime of genocide and defines the group of genocide participants narrowly, i.e., according to whether a person did or did not shoot people of Jewish ethnicity.* And this position is clearly emphasized.

"The Center ignores the remainder of criminal acts, specifically: a) the creation of living conditions intended to methodically physically exterminate an entire or part of a group of people; b) direct and public calls to commit genocide; c) collaborating in carrying out genocide. **The Center does not assess people according to these legal criteria**, although the abovementioned acts are included in the definition of genocide set by the Convention;"

6.2.2. "Conclusion 1 on J. Noreika's order for the establishment of a Jewish ghetto in Šiauliai and orders for the seizure of Jewish property in the district of Šiauliai claims "in the historiography the isolation of Jews and mass murder are not adjudged the same thing." The Center says 'driving Jews into ghettos ... provided the Nazis the opportunity to move on to the murder of the Jews, i.e., to exterminate them as an undesirable race, but there is no information J. Noreika was associated with the organization or execution of the mass murder of the Jews.' In Conclusion 1 the Center ignores the abovementioned criminal orders by Noreika and **does not consider his actions as contributing to the genocide of the Jewish people, nor as collaboration in committing genocide in the district of Šiauliai (Convention articles 2 c) and 3).**"

6.2.3. "In Conclusion 2 the Center provides no assessment of K. Škirpa's anti-Semitic propaganda and limits itself to a quote from the historian L. Truska who says 'The LAF appeals were one of the reasons why some Lithuanians contributed to the execution of the Nazis' criminal orders in the summer of 1941,' but Conclusion 2 doesn't examine this and only says in summary 'There were expressions of anti-Semitism in the activities of the LAF organization led by K. Škirpa.' **K. Škirpa's actions are not assessed according to article 3 c) of the Convention 'direct and public incitement to commit genocide,' neither article 2 (c, nor article 3 (e) of the Convention, 'contributing and collaborating in carrying out genocide';"**

6.2.4. "Considering objectively the Conclusions on actions by the people, it appears the Director is explaining historical facts tendentiously, not commenting on uncomfortable facts and evidence and is failing to assess contributing to genocide, collaborating in genocide and incitement to genocide as crimes against humanity.

"According to the Conclusions currently published and known, the Center only considers direct organizers and executors to be participants in the crime of genocide. Thus forming state policy in the field of historical research and publishing corresponding research findings, the **Center is in violation of the criteria formulated in the Statute and Convention for defining the crime of genocide**. This narrowed explanation of the crime of genocide contradicts the Statute and the Convention.

"Thus, by presenting these historical findings, this state-financed agency is violating Lithuania's obligations to fellow signatories to the Convention and UN law."

6.2.5. "The Center is a state institution which in performing and publishing historical findings sets the position of the state and the attitude of the public and institutions on the genocide of the Lithuanian and Jewish peoples. Assessment of the behavior of historical participants should be objective and based on the principles enshrined in law and international treaties.

"The abovementioned actions by the Director are a revision of the events of the Holocaust and a denial of genocide. This behavior violates Lithuania's obligations under the Convention and transgresses the limits of free speech defined by the European Court of Human Rights."

6.3. The Plaintiff, believing the "problem is deep-seated and demands exceptional attention by the parliament," requests: "1. To form a group to investigate the Director's actions regarding the explanation of the definition of the crime of genocide, including but not limited to the interpretation of genocide presented in the Conclusions;" "2. Upon finding violations, to require the Center to draft and publish at its expense findings on the actions of J. Noreika and K. Škirpa during World War II in which the activity of these individuals would be judged objectively according to articles 2 (c and 3 (e of the Convention;" "3. To take measures so that in the future in explaining the concept of genocide officially, the crime and its perpetrators would be defined in the way called for in international treaties."

7. The parliamentary ombudsman, taking into consideration the circumstances enumerated in paragraph 6 of this finding, additionally requests:

7.1. the Center to explain with supporting arguments: 1) whether the Center, in coming up with Conclusion 1, assessed the subject's behavior according to article 2 point c of the Convention ("the intentional formation of living conditions for this group which seek methodically to physically exterminate the entire or part of the group") and each point of article 3; if so, then to provide documents confirming this, if not, to explain the reasons; 2) whether the Center in coming up with Conclusion 2 assessed the subject's behavior according to article 2 point c of the Convention ("the intentional formation of living conditions for this group which seek methodically to physically exterminate the entire or part of the group") and article 3 points c and e ("direct and public incitement to commit genocide," "collaborating in the commission of genocide"); if yes, then to provide documents supporting this, if not, to explain the reasons; 3) whether the Center in coming up with the Conclusions took into account the positions of articles 6 and 8 of the Statute (on the legal judgment of the crime of genocide and its perpetrators, including those who "in agreement with an order by his government or commander"); if so, then to provide documents demonstrating this, if not, then to explain the reasons; 4) whether the Center in coming up with its Conclusions took into account the jurisprudence of the Criminal Tribunal of the United Nations elaborating the articles of the Convention ("if the collaborator knew or should have known of the intent held by the perpetrator to exterminate part of a group, then he will be accused as an accomplice in the act of genocide, even if he didn't have any

genocidal intentions himself;" United Nations International Criminal Tribunal in Rwanda, case no. ICTR-96-4, paragraphs 540-541)," if so, to provide documentary evidence confirming this, if not, to explain the reasons; 5) whether it is true that "the Center in its official Conclusions assesses the subjects only in terms of direct perpetration of genocide and defines a narrowed group of genocide perpetrators, i.e., they determine only whether a person shot or did not shoot people of Jewish ethnicity," "is distorting the definition of participants in the crime of genocide defined in international law," "the Center is ignoring the remainder of criminal acts, specifically: a) creating living conditions which methodically seek to physically exterminate a group or part of a group of people; b) direct and public incitement to commit genocide; c) collaboration in the commission of genocide. The Center did not assess the subjects according to these legal criteria," "explains historical facts tendentiously, doesn't comment on uncomfortable facts and evidence, does not consider contributing to genocide, collaboration and incitement to genocide as crimes against humanity," "the Center only considers direct organizers and perpetrators of genocide to be complicit in the crime of genocide," and if so, to explain the reasons why, and if not, then to provide examples and documentary evidence of that, to provide: 1) a reasoned opinion on whether the Center in coming up with its Conclusions applied appropriately the Convention's requirements, adhered to "the criteria formulated in the Statute and Convention on judging the crime of genocide," reasonable proposals on how to solve the disagreements which have arisen over the Conclusions, what measures the Center could/should take to accomplish this, etc.;

7.2. [and asks] the Ministry of Justice to provide a reasoned opinion on whether the Center in coming up with its Conclusions should have applied the positions of the Convention and the Statute, and should have considered the jurisprudence from the United Nations International Criminal Tribunal [hereinafter Tribunal]; if yes, then to propose a specific practice in cases of this sort, if not, to indicate the reasons; to explain in a reasoned manner how the disagreement arising over the Conclusions could/should be solved, as well as the possible violation of the Convention, and which state institution(s) could/should take measures regarding this.

Factual Circumstances Significant to the Investigation

8. From the information and explanations the Director provided the parliamentary ombudsman, it has been determined:

8.1. Regarding Conclusion 1:

8.1.1. "The Center in researching the actions of Jonas Noreika made use of all sources of information at its disposal and assessed those actions according to the positions of the Convention and Statute and the jurisprudence of the Tribunal explaining the positions of the Convention. This is clearly seen in the finding the Center presented on April 4, 2017 [Conclusion 1], which was not limited to stating Jonas Noreika was not a direct participant in genocide--he didn't shoot people--, but also spoke about his other actions (the isolation of Jews) which were

assessed according to the points formulated in the Convention and by the Tribunal as indicated by the Plaintiff;"

8.1.2. The Center in Conclusion 1 "stressed that according to the information possessed J. Noreika was not a direct participant in mass murder operations against Jews, not because the Center 'only assesses people according to their direct participation in genocide,' as the Plaintiff says incorrectly in his complaint, but because the information gathered disproves the testimony of A. Pakalniškis who worked at the komendature in Plungė to the effect J. Noreika had been a direct participant in mass murder operations against Jews."

Conclusion 1 "states: 'research into J. Noreika's activities during the period of the German occupation allows us to state that this activity ***cannot be judged in one single way***. ... In summary one can say during the period of German occupation Jonas Noreika did not take part in mass murder operations against Jews in the Telšiai and Šiauliai districts. ***Nonetheless, the Nazi occupational authority was able to engage him and other Lithuanian civilian administration officials in organizing affairs in connection with the isolation of Jews.***

"This observation, provided in bold in the Center's letter, clearly disproves the Plaintiff's accusations that allegedly 'The Center in its official Conclusions only assesses the role of direct participation in genocide and explains the group involved in genocide narrowly, i.e., determining only whether a person did or did not shoot people of Jewish ethnicity.'"

8.1.3. The Center in Conclusion 1 "brings attention to the fact a letter from Šiauliai district chief Jonas Noreika of August 22, 1941, has been discovered, addressed to 'all aldermen of rural districts and lesser town mayors of the Šiauliai district' and informing them of an order by the Šiauliai military district commander to remove all Jews and half-Jews from the rural districts and towns and to place them in a single neighborhood, a ghetto, and further informing them that Jews need to be removed to the town of Žagarė between August 25 and 29. In marking this fact, the Center sought to underline that this action by J. Noreika could fall under the criminal acts defined in the Convention and by the Tribunal, but in light of the universal presumption of innocence and the documents possessed, the Center was not able to state J. Noreika 'intentionally created such living conditions which were intended to methodically exterminate physically' the Jews or a portion of Jews, 'directly and publicly to incite to genocide,' 'collaborate in the commission of genocide' or committed other such acts as described in articles 2 and 3 of the Convention or in the Statute. The Center according to its competency was not able to determine whether J. Noreika really had signed this letter, nor whether he had 'known, or should have known about the executor's goal to exterminate part of a group,' as indicated in the Tribunal's jurisprudence. The Center in its finding indicated an important circumstance in this regard, i.e., that J. Noreika was not considered a reliable person by the Nazis: because of failure to carry out orders by the German civilian administration and articles against the Nazi regime of February 23, 1943, J. Noreika was relieved of duties as head of the Šiauliai district and imprisoned at the Šiauliai prison, and later sent to the Stutthof concentration camp in Germany [sic, in Poland];"

8.1.4. ***"In writing its finding about J. Noreika, the Center did consider (although it did not mention ... [in Conclusion 1]), that the Lithuanian Supreme Court had rehabilitated J. Noreika and that until now that rehabilitation has not been rescinded;"***

8.1.5. In the Director's opinion, "The entire whole of the circumstances of Jonas Noreika's actions comprehensively and exhaustively laid out in Conclusion 1 ... confirms the Center, in researching Jonas Noreika's activities and presenting its findings, appropriately applied the requirements of the Convention and adhered to the criteria for establishing the crime of genocide formulated in the Convention, Statute and in the Tribunal's jurisprudence."

8.2. On Conclusion 2:

8.2.1. "The Center in researching the activities of Kazys Škirpa used all information sources available to it and assessed his activities according to the positions of the Convention and Statute ... and the jurisprudence of the Tribunal explaining the positions of the Convention. This is clearly seen in the Center's finding of April 4, 2017 [Conclusion 2], in which attention is brought bear upon an act by K. Škirpa which was assessed according to the positions formulated in the Convention and by the Tribunal referenced by the Plaintiff: 'Anti-Semitism was raised to the political level in the activities of K. Škirpa and the Berlin LAF and that could have encouraged some resident of Lithuania to get involved in the Holocaust;'"

8.2.2. In Conclusion 2 "the act by Kazys Škirpa emphasized by the Center confirms the Center assessed it in accordance with the articles of the Convention and the jurisprudence applied by the Tribunal, and clearly negates the Plaintiff's accusation that, allegedly, 'the Center in its Conclusions on the subjects only assessed the aspect of direct involvement in executing genocide and considers the group of people involved in genocide narrowly, i.e., they only determine whether a person shot or did not shoot people of Jewish ethnicity.'

"Underlining that fact, the Center would like to also underline, that the actions of K. Škirpa could be included in the criminal acts defined by the Convention and the Tribunal, but, in light of the universally recognized principle of the presumption of innocence and the documents in its possession, the Center was unable to state that K. Škirpa 'intentionally created living conditions under which it was methodically sought to physically annihilate them [the people] in their entirety or in part,' 'directly and publicly incited to genocide' or 'collaborated in the commission of genocide' or committed other acts defined in articles 2 and 3 of the Convention;

8.2.3. "According to the information available and to its competency, the Center was also not able to state that K. Škirpa "knew or should have known the intent of the executor to exterminate part of the group,' as indicated the Tribunal's jurisprudence. The Center in its finding indicated the circumstances significant in this regard: having researched the anti-Semitic statements in the texts drafted by the Berlin LAF, it may be stated that its members proposed solving the 'Jewish problem' not through genocide, but by driving them out of Lithuania, and that on the eve of the war members of the Berlin LAF had no information about the Nazis' planned total extermination

of the Jews, and also, K. Škirpa was not considered a reliable person by the Nazis: when the Provisional Government proclaimed the restoration of Lithuanian independence, the Gestapo placed K. Škirpa under house arrest."

8.2.4. "In writing the finding on K. Škirpa the Center considered as well extenuating circumstances which were not mentioned ... [in Conclusion 2], on possibly similar criminal acts defined in the Convention and the Statute, the suspected actions of Provisional Government of Lithuania leader Juozas Brazaitis-Ambrazevičius who took over this role from K. Škirpa which were looked into comprehensively by the U.S. Congress and the U.S. Immigration and Naturalization Service in 1974, and that Juozas Brazaitis-Ambrazevičius was completely exonerated. K. Škirpa himself spent the last 30 years of his life in the USA (dying in 1979) without any accusations from the U.S. administration or law enforcement, which, as stated earlier, were actively investigating people who had committed crimes of genocide and the actions of the Provisional Government of Lithuania;"

8.2.5. In the Director's opinion, "the entirety of the circumstances of the actions by K. Škirpa comprehensively and exhaustively explained [in Conclusion 2] confirms that the Center, in researching the actions of K. Škirpa and in presenting its findings, appropriately applied the requirements of the Convention and adhered to the criteria for the establishment of the crime of genocide formulated in the Convention, the Nuremberg State and in the Tribunal's jurisprudence;"

8.2.6. "Under the law, the Center determines facts in the genocide and persecution of residents of Lithuania and provides information about specific perpetrators of genocide to the state's law enforcement institutions, but does not deliver a final legal verdict. If the Plaintiff believes he has sufficient evidence to show criminal actions by Jonas Noreika and Kazys Škirpa, he may contact institutions of law enforcement regarding this."

9. From the information and explanations provided by the Justice Ministry, it has been determined:

9.1. "... The Justice Ministry doesn't have the competence to assess and (or) provide a legal opinion regarding ... the contents of the specific findings delivered by the Center. ... On the other hand, in terms of discussion, a question of a general nature arises: is the Center, based on the Center's regulations approved by the parliament of the Republic of Lithuania in resolution no. VIII-505 of November 11, 1997, actually authorized overall to present findings of a legal nature which include a judgment of a legal nature on specific circumstances or actions performed by people (or non-action)? It is to be thought that based on the abovementioned regulations of the Center, ***the Center in investigating expressions of war crimes, crimes against humanity and genocide (using all available academic, analytical and informational material in the study) should in its findings limit itself to an historic evaluation of specific circumstances and (or)***

the actions (behavior) of people. If there is a demand and basis for it, the Center may only '... initiate a comprehensive legal assessment of the organizers and executors of genocide and (or) ... consequences of genocide and occupation ...'

9.2. "It should be noted that the delegation of determinations of law (when authorized entities explain acts of law) is done by the common and specialized courts in the Republic of Lithuania. In this context attention must be brought to the language of article 33, section 4 of Law on Courts of the Republic of Lithuania (hereinafter Court Law), under which the courts in rendering verdicts in corresponding categories of cases, are bound to the rules of the explanations of law they themselves and higher courts have established beforehand in proceedings in analogous or essentially similar cases. At the same time the Lithuanian Supreme Court (hereinafter SC), based on article 23, in its role of explaining unified jurisprudence for courts of general competency and applying laws and other legal acts, performs the following functions to this end: 1) issues resolutions by plenary sessions of departments and also resolutions by three-member and expanded seven-member collegia of judges the issuance of which is approved by a majority of judges in the corresponding department. The courts, state and other institutions and also other people and entities who administer these same laws and legal acts use the findings of the SC on acts of law and other legal acts published in the SC's bulletin; 2) analyzes jurisprudence in the application of laws and other legal acts and provides recommended explanations; 3) consults judges on issues of explaining and applying other legal acts. At the same time, based on findings by European Union legal institutions, the SC analyzes and summarizes jurisprudence for courts of general competency based on EU legal standards and provides recommendations for cooperation between Lithuanian courts of general competency and legal institutions of the EU to provide for a united explanation and application of EU law in the Republic of Lithuania.

"In light of that, in the aspect being considered it should be noted that the commission of the crime of genocide and objective and subjective characteristics of its commission should be tried in the Lithuanian courts based on article 99 of the criminal code of the Republic of Lithuania (hereinafter CC), which provides positions on and a definition of the crime of genocide. At the same time the establishment of the commission of the crime of genocide and the process of trying it should also be based on the 'Overview of Jurisprudence on Crimes against Humanity and War Crimes (articles 99, 100 and 102 of the CC)' prepared by the Legal Research and Summation Department of the Supreme Court of Lithuania of June 29, 2012, which provides a comprehensive additional explanation of the commission of the crime of genocide and other crimes against humanity.

"This overview of jurisprudence compiled by the SC also notes 'the principles of the definition of crimes against humanity and war crimes and criminal liability for them are codified in international law,' but *in this context the relevant '... acts of international law are not applied directly in Lithuanian law ...'* , because 'in applying Lithuania's international obligations, according to the requirements of acts of international law, forbidden acts are criminalized by adopting corresponding criminal acts in the CC. In aspiring to provide the appropriate execution

of Lithuania's international obligations and the consistent and called-for application of these standards of criminal law, they should be tried taking into consideration the significance of indications of crimes against humanity and war crimes, and also the principles of criminal responsibility defined according to acts of international law and international jurisprudence."

Acts of International Law, Laws of the Republic of Lithuania and Other Legal Acts Bearing on the Study

10. United Nations Convention on the Prevention and Punishment of the Crime of Genocide, December 9, 1948 (which came into force for Lithuania on May 1, 1996) [Convention]:

10.1. Article 1: "The contracting parties confirm that genocide, whether committed in time of peace or war, is a crime under international law, which they pledge to prevent and to punish;"

10.2. Article 2: "In this convention genocide means any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: a) killing members of the group; b) causing serious bodily or mental harm to members of the group; c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; d) imposing measures intended to prevent births within the group; e) forcibly transferring children of the group to another group;"

10.3. Article 3: "The following acts shall be punishable: a) genocide; b) conspiracy to commit genocide; c) direct and public incitement to commit genocide; d) attempt to commit genocide; e) complicity in genocide;"

10.4. Article 4: "Persons committing genocide or any of the other acts enumerated in article 3 shall be punished, whether they are constitutional responsible rulers, public officials or private individuals;"

10.5. Article 6: "Persons charged with genocide or any of the other acts enumerated in article 3 shall be tried by a competent tribunal of the state in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those contracting parties which shall have accepted its jurisdiction;"

10.6. Article 9: "Disputes between the contracting parties relating to the interpretations, application or fulfilment of the present convention, including those relating to the responsibility of a state for genocide or for any of the other acts enumerated in article 3, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute."

11. Article 5 of the constitution of the Republic of Lithuania: "... ***government institutions serve the people.***"

12. *Law on the Center for the Study of the Genocide and Resistance of Residents of Lithuania* [Law]:

12.1. Article 2, paragraph 1: "... is a state institution studying all expressions of genocide and other crimes against humanity and war crimes, the persecution of Lithuanian residents during military occupations as well as processes of armed and unarmed resistance to these occupations, initiating a legal assessment of organizers and executors of genocide. The Center coordinates the investigations carried out by other institutions in the field defined in this law. ...;"

12.2. Article 4: "The Center's tasks are the restoration of historical truth and justice, research into the physical and spiritual genocide by and resistance to the occupational regimes of 1939 to 1990, commemoration of freedom fighters and victims of genocide and the initiation of legal assessment of the consequences of occupation. The Center also investigates the policies carried out by the occupational regime in the Vilnius region from 1920 to 1939 and processes of resistance to these policies;"

12.3. Article 5: "The Center in performing the tasks assigned it: 1) sets state policy in the field defined in this law: sets the direction and methodology of research, formulates the issues, forms long-term and short-term genocide and resistance research programs and carries them out and coordinates research performed by all other institutions in this area; 2) seeks, collects, systematizes and summarizes material about the crimes committed by the occupational regimes, demonstrates the criminal nature of totalitarian regimes and demonstrates the system of committing genocide, other crimes against humanity and war crimes; 3) collects, analyzes and summaries material on resistance to the occupational regimes, activities of underground organizations, the partisan movement and freedom fighters; 4) publishes academic, informational and analytical material, publishes publications on the genocide by and resistance to the occupational regimes by Lithuanian residents, holds academic conferences and participates in programs organized by other institutions and countries; ... 17) initiates a comprehensive legal assessment of the effects of genocide and occupation, and for recognizing the criminal nature of organizations which carried out the genocide and persecution of residents of Lithuania; 18) determines facts of genocide and the persecution of Lithuanian residents and provides material about specific perpetrators of genocide to state law-enforcement institutions; cooperates with these institutions by delegating representatives to working groups carrying out research and with the authorization to launch pre-trial investigations; may be a witness in court on genocide and other crimes against humanity and war crimes; ...;"

12.4. Article 6: "4. The Center is led by a general director. The prime minister nominates him and the parliament appoints and dismisses him. ... 7. The Center is accountable for its activities to parliament and the Government. 8. The Center's competency, structure and functions are defined in the Center's regulations. These regulations are presented by the prime minister and approved by the parliament. ..."

13. *The law on public administration:*

13.1. Article 3: "Public administrative entities base their activities on the following principles: 1) ***the rule of law***. This principle means the powers of public administrative entities to perform public administration must be laid down in law, and activity must follow the legal bases laid down in this law. Administrative acts in connection with implementing the rights and duties of people must in all cases be based in law; 2) ***objectivity***. This principle means that the adoption of an administrative decision and other official actions by a public administrative entity must be unbiased and objective; ... 13) ***comprehensiveness***. ***This principle means that the public administrative entity must reply clearly and in a rational manner to a request or complaint, indicating all circumstances and specific sections of laws bearing on the consideration of the request or complaint which were used in assessing the content of the request or complaint;***"

13.2. Article 14: "1. Public administrative entities consider requests by people according to the rules approved by the Government."

14. *Center for the Study of the Genocide and Resistance of Residents of Lithuania regulations, adopted by Lithuanian parliament in resolution no. VIII-505 of November 11, 1997 [hereinafter Regulations], regulate that:*

14.1. "2. The Center bases itself on the constitution of the Republic of Lithuania, the law on the Center for the Study of the Genocide and Resistance of Residents of Lithuania, other laws, Lithuanian presidential decrees, parliamentary and Government resolutions and these regulations."

14.2. "6. The Center performs the following functions: ... 8) researches archival material and provides information to corporate entities and real people on those who died, disappeared and were persecuted during the period of occupations, and Lithuanian residents and volunteer soldiers as well as freedom fighters who suffered during the occupations from 1939 to 1990;"

15. *Rules for the consideration and fulfillment of requests by public administrative entities, approved by the Government of the Republic of Lithuania in resolution no. 93 of August 26, 2015, (Rules for considering requests; redaction in force until November 23, 2017) prescribe that:*

15.1. "8. Requests from people are considered according to the institution's area of competence. If the institution to which the request was presented is not authorized to make a decision regarding the issues contained in it, it sends the request on to a competent institution of the Republic of Lithuania within 5 days of receipt of the request at the [original] institution and likewise reports that to the person [who made the request], explaining the reason for sending his request on."

15.2. "47. Replies are prepared based on the contents of the request: ... 47.4. to an address [request] in which a person's position on a specific issue is expressed, which reports on improvement or failures in an institution's work or provides suggestions for improvement, which brings attention to a specific situation, reports on abuse of office or illicit actions by public servants not connected with the violation of the legitimate interests and rights of the specific individual, or another sort of address [request], reply is made in free form."

Jurisprudence Bearing on the Investigation

16. Resolution by the Constitutional Court of the Republic of Lithuania of December 13, 2004, rendered in case no. 51/01-26/02-19/03-22/03-26/03-27/03: "The constitutional position that government institutions serve the people, the constitutional imperative for an open society and the constitutional definition of public service mean that public service should be open and accessible by people whose affairs it puts in order. It is noted that the function of the state, as with all societal organizations, and therefore of public service as well, is to insure human rights and freedoms and to serve the public interest.

"Public service must operate by adhering solely to the constitution and the law. Every state and municipal institution through which state functions are performed and every public servant must heed the requirements of legality. Public servants must not abuse the powers granted them, and must not violate the requirements of acts of law. ***The Constitutional Court in its resolution of June 30, 2000, stated that state institutions and officials must protect and defend human rights and freedoms; it is extremely important that in their carrying out of the functions assigned them, they don't themselves violate human rights and freedoms ...*** The Constitutional Court in its finding of November 5, 2005, stated that the principle of responsible governance is enshrined in the constitution. ***The government's responsibility to the public is the principle of the state under the rule of law, which is enshrined in the constitution where it states government institutions serve the people, and that citizens have the right ...*** to appeal their decisions, guaranteeing citizens the chance to defend their rights in court, the right to petition and ***also the procedures for considering requests and complaints by citizens regulated in acts of law***, etc."

17. Article 15 of the Lithuanian law on procedures for administrative cases provides that the Lithuanian Superior Administrative Court provides a uniform jurisprudence in rendering decisions and applying laws and other legal acts at administrative courts, and that state and other institutions and entities take into consideration the findings and resolutions of the Superior Administrative Court on laws and other legal acts in applying those same laws and legal acts. Lithuanian Superior Administrative Court jurisprudence:

17.1. Finding in administrative case no. A502-1605/20012 of March 1, 2012: "... ***The constitution of the Republic of Lithuania enshrines the principle of responsible governance***

(good administration) (Lithuanian Constitutional Court resolutions of May 11, 1999 and December 13, 2004 and finding of November 5, 2004). ***One of the principles of good administration is the constitutional position that all government institutions serve the people*** (Lithuanian Superior Administrative Court resolution of May 31, 2005, in administrative case no. A10-655/2005). Article 1 of the law on public administration elucidates the function of the law under discussion, stating this law provides the foundations for implementing the position of the constitution of the Republic of Lithuania that all government agencies serve the people; sets the principles of public administration, the areas of competence of public administration, the system of public administrative entities and the organizational foundations for administrative procedures; guarantees the right to appeal actions, non-action and administrative decisions by public administrative entities, and also the right to a fair and objective consideration of requests, complaints and reports, based in law; defines other rights and freedoms of people and public administrative entities in the field of public administration. Article 3 of the law on public administration states public administrative entities base their actions on the rule of law, objectivity, proportionality, non-abuse of power, efficacy, subsidiarity and other principles names in the standard of law. ***This means that every public administrative institution is constrained by principles of common as well as constitutional law (state under the rule of law, government institutions serve the people, rule of law, non-discrimination, equality before the law, proportionality and etc.) and principles of good administration and responsible governance (fairness, objectivity, non-abuse of authority, transparency and etc.);***"

Conclusion of Investigation

18. Summarizing the circumstances determined and shown above (in paragraphs 1 to 9 of the finding) and taking into consideration legal regulation and jurisprudence (articles 10 to 17 in the finding), it should be stated:

18.1. The Center is a government institution which in seeking to restore historical truth and justice ***sets state policy*** (Law; points 12.1 to 12.3 in the finding) ***on research in the field defined in the Law*** (all expressions of genocide and other crimes against humanity and war crimes, the persecution of Lithuanian residents during the periods of occupation, and also the processes of armed and unarmed resistance to the occupations), ***initiates legal assessment of organizers and executors of genocide based on the constitution of the Republic of Lithuania, the Law, other laws and resolutions and regulations by the parliament and Government*** (Regulations, point 14.1 of the finding), and provides information to corporate entities and real people about people who perished and disappeared during the occupations, Lithuanian residents, volunteer soldiers and freedom fighters who were persecuted and suffered during the occupations from 1939 to 1990 (Regulations, point 14.2 in the finding);

18.2. The Plaintiff appealed to the parliamentary ombudsman, complaining the Center (Director) had violated his rights in the field of public administration in considering his Request the parliamentary ombudsman had sent (asking the Center according to its competence to assess the circumstances indicated in the Request and to provide a reasonable response to the Plaintiff, point 4.2.4. in the finding), complaining that the Center hadn't maintained the requirements of the public administrative principles of objectivity and comprehensiveness, and therefore hadn't considered the request correctly (sending a Reply not adhering to the requirements of law, i.e., "Not a word was said about the issues raised by the Plaintiff," "basically not answering the questions raised," "provided no legal arguments providing an objective basis for the Center's position," paragraph 2 in the finding), and asked the parliamentary ombudsman "to demand the Center provide an answer meeting the requirements of objectivity and the law;"

18.3. In the Plaintiff's complaint sent to the parliamentary ombudsman by the Human Rights Committee of the Lithuanian parliament, it was noted additionally that the Center in its Conclusions "distorts the internationally accepted concept of collaboration in the crime of genocide," "violates criteria for judging the crime of genocide formulated in the Statute and Convention," and assessed the actions of the individuals in question without regard to all of the legal aspects defined in the Convention (point 6.2 in the finding).

It should be noted that the requests presented to parliament in the complaint sent by the Plaintiff ("to form a group to investigate the actions of the Director on the determination of the concept of the crime of genocide, including but not limited to the interpretation of the concept of genocide presented in the Conclusions" and etc., point 6.3 in the finding) will not be considered by the parliamentary ombudsman during this investigation because, as was explained to the Plaintiff above, "It is not within the competency of the parliamentary ombudsman to investigate disputes of law nor to determine factual (historical) circumstances," "An assessment of the Center Director's actions and decisions in terms of accountability and the leveling (or non-leveling) of sanctions is the jurisdiction of the prime minister and parliament based of the legal relationships involved, because the Center Director is appointed, on the prime minister's nomination, and dismissed by the parliament" (point 4.2.1. in the finding);

18.4. *based on legal regulation and jurisprudence the Request should have been considered adhering to* (at this time the Center has failed to indicate another, e.g., special act of law, under which in considering requests from the public the requirements of Regulations on the consideration of requests would not apply):

18.4.1. The constitutional principle of accountable governance (good administration), that "government agencies serve the people," the jurisprudence of the Constitutional Court and other courts that public service must be performed solely based on the constitution and the law and that state institutions are constrained by general legal principles (state under the rule of law, government agencies serve the people, the rule of law, non-discrimination, equality before the law, proportionality and etc.) and principles of good administration and responsible governance

(fairness, objectivity, non-abuse of power, transparency), and must protect and defend and in no way violated human rights and freedoms, ***and must in adopting a decision on the Request operate according to the principle enshrined in the constitution and reiterated in the law on public administration that government agencies serve the people*** (paragraphs 11, 16 and 17 in the finding);

18.4.2. the requirements of the law on public administration, according ***to the requirements of the principles of objectivity (meaning the official actions by a public administrative entity should be unbiased and objective) and comprehensiveness (meaning reply should be made to a request or complaint in a clear and reasoned manner, indicating all circumstances and specific articles of law which had an influence on the consideration of the request or complaint and which were the basis for assessing the content of the request or complaint)*** (paragraph 13 of the finding);

18.4.3. requirements of the Regulations for considering requests: according to the Center's competency and regarding the contents of the Request (paragraph 15 of the finding);

18.5. The parliamentary ombudsman, at the beginning of this investigation, in light of the circumstances listed in the Plaintiff's complaint and considering the requirements of legal acts regulating the process of considering requests, asked the Center:

18.5.1. ***as mediator [ombudsman being the mediator], to again consider the Request and provide a reasoned reply (with a copy sent to the parliamentary ombudsman) to the issues, arguments, problems and etc. raised by the Plaintiff and all circumstances and articles of specific acts of law which had an influence and were the basis for assessing the contents of the Request, adhering to the constitutional principle that "all government institutions serve the people," the principles of public administrative objectivity and comprehensiveness and the requirements of the Regulations on considering requests***, providing reasoned explanations of the Center's position on each issue raised by the Plaintiff and on all circumstances indicated by the Plaintiff and quoted in this finding (the parliamentary ombudsman's letter to the Center singled out all of the circumstances indicated by the Plaintiff for which the Center should have provided explanations in its Reply) (point 5.1. in the finding);

18.5.2. and asked to provide reasoned explanations on ***why the Reply did not contain explanations by the Center on all of the circumstances, issues, problems, Plaintiff's arguments and etc. contained in the Request*** (point 5.2. in the finding);

18.6. The parliamentary ombudsman, in light of having received a letter with additional content for the complaint, again asked the Center to provide a reasoned answer to the circumstances cited by the Plaintiff, including: did the Center in coming up with Conclusion 1 take into account the subject's actions according to article 2 c) and every point of article 3 of the Convention; did the Center in coming up with Conclusion 2 assess the subject's actions according to article 2 c) and article 3 c) and e) of the Convention; did the Center in coming up with its Conclusions take into

account paragraphs 6 and 8 of the Statute; did the Center in coming up with its Conclusions take into account the jurisprudence of the Tribunal interpreting the positions of the Convention, and etc.? (point 7.1 in the finding).

The parliamentary ombudsman also approached the Justice Ministry to get a reasoned opinion by a competent institution on whether the Center in coming up with its Conclusions should applied the positions of the Convention and the Statute and whether it should have considered the jurisprudence of the Tribunal (point 7.2 in the finding). The Justice Ministry noted that "a review of the jurisprudence by the SC notes that 'the concept of crimes against humanity and war crimes and the principles of criminal liability for them are formulated in international law,' but that in this context 'acts of international law **are not applied directly** in Lithuanian law,'" and furthermore that it was the Ministry's opinion that the Center in investigating expressions of genocide and other crimes against humanity and war crimes (using all available academic, informational and analytical material for the study) **should limit itself in its research findings to an assessment of an historical nature of the specific details and/or actions/behavior by people**, and that if there is demand and a basis for it, the Center may only "initiate a comprehensive legal assessment of the consequences of genocide and occupation [and/or] organizers and executors of genocide" (point 7.2 and paragraph 9 in the finding);

18.7. in this case the Center:

18.7.1. Did not take into consideration mediation by the parliamentary ombudsman and, in adherence to the constitutional principle "government institutions serve the people" and the requirements of the public administrative principles of objectivity and comprehensiveness as well as other legal acts, **did not again consider the Request according to the Center's competency and the contents of the Request, did not provide the Plaintiff a clear and reasoned answer to all of the issues, arguments, problems and etc. he raised**, indicating all the circumstances and specific articles of law which had an influence on consideration of the Request and which were used to assess the contents of the Request, providing as well reasonable explanations on the Center's position regarding every issue raised by the Plaintiff, the circumstances indicated by the Plaintiff and cited in this finding (points 5.1 and 18.5.1 in the finding);

18.7.2. **during this investigation did not provide reasoned explanations as requested by the parliamentary ombudsman why there were answers by the Center in its Reply to all of the circumstances, issues, problems, arguments by the Plaintiff** and etc. (points 5.2 and 18.5.2 in the finding);

18.7.3. did present an answer to the parliamentary ombudsman's letter on questions raised in the part of the Plaintiff's complaint sent by the parliament (points 7.1 and 18.6 in the finding), i.e., did explain that in preparing its Conclusions it held to the requirements of the Convention and Statute and took the jurisprudence of the Tribunal into considerations. In the Center's opinion it

"appropriately applied the requirements of the Convention and adhered to the criteria formulated in the Convention, the Nuremberg Statute and the jurisprudence issuing from the Tribunal for assessing the crime of genocide" (points 8.1.5 and 8.2.5 in the finding) (as noted above, the parliamentary ombudsman under the competency assigned the office by law is not authorized to confirm or deny this opinion, a legal assessment of the act indicated in the Conclusions belongs to the jurisdiction of the courts; points 8.2.6, 18.3 in the finding);

18.7.4. it should be noted that the Center during this investigation:

18.7.4.1. admitted that in preparing its Conclusions it had taken into account circumstances which weren't indicated in the Conclusions (points 8.1.4 and 8.2.4 in the finding), this, ***it failed to adhere to the requirements of the principle of transparency***;

18.7.4.2. commented up several of the Plaintiff's arguments to the parliamentary ombudsman (points 6.2.1, 8.1.2, 8.2.2 and 8.2.3 in the finding) but did not provide these explanations to the Plaintiff.

19. Summarizing the findings listed above, it should be stated that the Center in considering the Request, failed to follow the principles and other requirements of laws and other legal acts regulating the process for considering public requests, failed to fulfill article 5 of the constitution of the Republic of Lithuania which says all government institutions serve the people and failed to correctly implement the Plaintiff's right to good public administration.

Thus, based on article 22 part 1 of the Lithuanian law on the parliamentary ombudsman, the conclusion should be that the Plaintiff's complaint on actions (non-action) by Center officials ***should be recognized as well-founded***.

20. The ***parliamentary ombudsman also brings the Director's attention*** to the fact that:

20.1. From 2016 to 2018 the parliamentary ombudsman has investigated 4 complaints over the Center's actions and has found violations of the process for considering requests by the public (no. 4D-2015/1-1618, no. 4D-2016/1-750. no. 4D-2017/1-1471 and no. 4D-2017/1-1558), and;

20.1.1. brings the Center's attention to the unfounded delay in providing information (documents) to individuals, stating that ***the attitude of the Center's director and employees towards the carrying out of the Center's function--proving information to people-- , towards adhering to the requirements of rules of ethics regarding public service activities and towards the organization of internal administration should not be considered an appropriate implementation of the principle of government institutions serving the people***, and if the

situation continues to repeat itself, it is believed appropriate to inform the institutions to which the Center answers of this (finding no. 4D-2015/1-1618 of February 25, 2016);

20.1.2. again states that the *Center presented an answer to an individual's request too late, failed to respond to another letter from that individual without foundation*, and so on, and recommended the Center "take legal and organization measures so that in the future an appropriate consideration of requests by all people and timely responses to petitioners would be insured," but *the Center failed to inform the parliamentary ombudsman of the conclusions reached after considering these recommendations* (finding no. 4D-2016/1-750 of August 24, 2016);

20.2. in light of the above circumstances regarding the results of investigating the Center's activities in replying to complaints by the public, and in light of the results of the investigation of this complaint (the Center's Reply failed to meet the requirements of acts of law, the Center failed to take into consideration mediation by the parliamentary ombudsman and failed to provide another answer to the Plaintiff meeting the requirements of law), there is basis to state that the Center's activities in considering requests by the people contain indications of systematic failure to follow the requirements of law, and therefore it is the parliamentary ombudsman's opinion that it would be to the point additionally to hold a discussion of the Center's activities in considering requests and complaints from the public including the parliamentary ombudsman, the Director and other responsible employees of the Center and office of parliamentary ombudsman;

20.3. The Center's Regulations, unlike those of other state institutions which set state policy in specific areas, which the Center also does (point 18.1 of the finding) (for example point 9.11 of the regulations of the Environmental Protection Ministry, point 6.27 of the Social Welfare and Labor Ministry, point 8.32 of the Justice Ministry's regulations), do not specifically state the Center according to its competency considers complaints, reports and requests from the public. This possibly has an influence on the inappropriate attitude of Center employees regarding the consideration public requests, reports and complaints.

It is the parliamentary ombudsman's opinion that it would be appropriate to amend the regulations to show that the Center according to its competency does consider requests, reports and complaints from the public.

DECISION BY THE PARLIAMENTARY OMBUDSMAN

21. The parliamentary ombudsman of the Republic of Lithuania, based on article 22, part 1, point 1 of the Lithuanian law on the parliamentary ombudsman, resolves to find the Plaintiff's complaint on the actions (non-action) by Center officials well-founded.

RECOMMENDATIONS BY THE PARLIAMENTARY OMBUDSMAN

22. Based on article 19, section 1, points 1, 8 and 14 of the Lithuanian law on the parliamentary ombudsman, the parliamentary ombudsman recommends:

22.1. to the Government of the Republic of Lithuania: to initiate amendment to the regulations of the Center for the Study of the Genocide and Resistance of Residents of Lithuania to include that the Center according to its competency considers requests, reports and complaints from the public;

22.2. to the director of the Center for the Study of the Genocide and Resistance of Residents of Lithuania:

22.2.1. to again, based on the constitutional principle that "government institutions serve the people" and the requirements of the principles of objectivity and comprehensiveness in public administration as well as the Regulations for considering requests, consider the Request to the Center's competency and in light of the contents of the Request, and to provide the Plaintiff with a clear and reasons response (with a copy to the parliamentary ombudsman) on all the issues, arguments, problems and etc. he raises, indicating all circumstances and specific articles of law which had an influence on consideration and the request and which were used as the basis to consider the contents of the Request, and also to provide reasoned explanations on the Center's position regarding each issue raised by the Plaintiff, and the circumstances indicated by the Plaintiff and cites in this finding;

22.2.2. to inform us of what legal and organization measures the Center has taken so as to insure in the future an appropriate consideration of public requests and so that answers will be made to petitioners in a timely manner.

We ask you to report the results of your consideration of these recommendations in the manner laid out in article 20, part 3 of the Lithuanian law on the parliamentary ombudsman, i.e., not later than 30 days from the day of receipt of the recommendations.

[signed]

Augustinas Normantas

Parliamentary Ombudsman