

# Lithuania

## PROGRESS UNDER THE GLOBAL STRATEGY BEYOND DETENTION 2014-2019, MID-2016

**IN LITHUANIA**, as a result of the transposition of the EU recast asylum instruments in 2015, the legislative framework encompasses relevant safeguards against unlawful or arbitrary detention of asylum-seekers. Compared to 2013 and 2014, resort to detention has been significantly reduced. Currently, families with children are not detained as a matter of established judicial practice, while other asylum-seekers with special needs (e.g. pregnant women) falling under relevant detention grounds, are increasingly referred to the alternative to detention (ATD) scheme.

The National Action Plan (NAP) was developed through bilateral consultations with various stakeholders including detention authorities, the Child Rights Ombudsperson Office, the Parliamentary Ombudsperson Office and NGOs assisting refugees. Information received during these consultations informed the analysis of the current detention situation in the country and provided the basis for specific actions to be carried out within the roll-out of the Global Strategy. The Ministry of the Interior was briefed on the envisaged activities.



## KEY DEVELOPMENTS

- Inclusion of a revised list of detention grounds, a provision requiring that detention be as short as possible and no longer than necessary, as well as provisions on community based arrangements for persons in situation of vulnerability or at risk and their family members in the Law on the Amendment of the Law on the Legal Status of Aliens transposing the EU common European asylum system into domestic law.
- Approval of a project involving child-specific social activities by the Asylum, Migration and Integration Fund (AMIF), offering children, including those subject to the ATD scheme (designated residence at a reception facility), the possibility to spend daytime outside the institutional environment of the centre.
- Pronouncement of several precedent setting principles and safeguards by the Supreme Administrative Court of Lithuania,<sup>1</sup> underlining that a mere risk of absconding is not sufficient to detain families with children and that necessity and proportionality considerations are key principles governing the detention of asylum-seekers.
- Release of the last children detained in November 2015. By 31 December 2015, no children were detained in Lithuania.
- Systematic access to detention facilities granted to UNHCR's partner, the Lithuanian Red Cross Society (LRCS), for the purpose of system-wide monitoring.

<sup>1</sup> Lithuania's Supreme Administrative Court's judgments, case A-1798-624/2015, available at: <http://goo.gl/4XkvIB>, case A-2621-662/2015, available at: <https://goo.gl/h04DV8>, and case A-3714-662/2015, available at: <http://goo.gl/Gl8c6E>.

## Activities undertaken by UNHCR and partners during the roll-out period of the Global Strategy

The Global Strategy was launched and the NAP was presented at a **conference at the Lithuanian Parliament** in March 2015, jointly organized by UNHCR, the Parliamentary Human Rights Committee and the Parliamentary Ombudsman Office. Live broadcast and video records were made available on the Lithuanian Parliament's website<sup>2</sup> and several radio stations, including the national radio, reported on the conference. There were two press releases, including a joint UNHCR – Parliamentary Ombudsman Office press release.

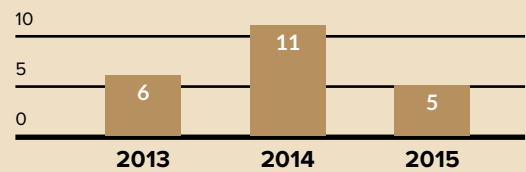
In September 2015, UNHCR, in collaboration with the Council of Europe, organized a **seminar on international and EU detention-related standards**, attended by 70 legal practitioners and members of the judiciary. UNHCR also provided **training on detention related standards**, including on UNHCR *Detention Guidelines*, to legal practitioners involved in the National Network of Asylum Lawyers. This network is used for the dissemination of case law and other legal information among asylum and immigration legal practitioners and was instrumental in providing training to lawyers (via an e-platform and annual meeting) and coordinating country level strategic litigation efforts of different legal service providers. In December 2015, it was expanded to include legal practitioners involved in providing detention related legal aid to third country nationals in irregular presence and return procedures.

With regard to **strategic litigation**, the LRCS legal team provided counselling in the Foreigners Registration Centre (FRC) once a week and systematically initiated judicial review proceedings on behalf of concerned children within 7 to 10 days, when not done by the FRC or the State-funded legal aid providers. These efforts resulted in several precedent setting judgements by the Supreme Administrative Court of Lithuania, who *inter alia* underlined that a mere risk of absconding is not sufficient to detain families with children and that the necessity and proportionality considerations are key principles governing the detention of asylum-

<sup>2</sup> <http://goo.gl/KY5HBW>

### GOAL 1 End the detention of children

#### NUMBER OF CHILDREN DETAINED

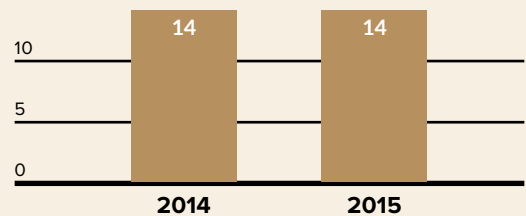


Source: Detention facility

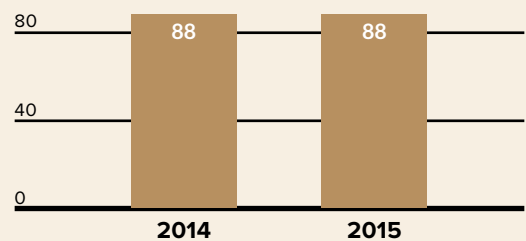
- Legal framework partially ensures that children are not detained.

### GOAL 2 Ensure that alternatives to detention (ATDs) are available

#### NUMBER OF PLACES AVAILABLE IN CARE ARRANGEMENTS FOR UASC



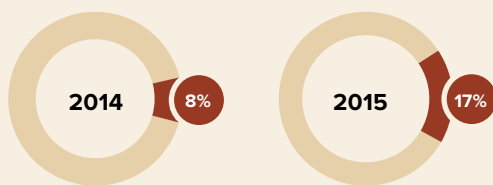
#### NUMBER OF PLACES AVAILABLE IN ATDs FOR FAMILIES



TYPES OF ATDs:	2013	2014	2015
Deposit or surrender of documentation			
Reporting conditions	☑	☑	☑
Directed residence	☑	☑	☑
Residence at open/semi-open reception/asylum centres	☑	☑	☑
Release on bail/bond			
Provision of a guarantor/surety	☑	☑	
Community supervision arrangements			

☑ available in legislation ☑ used in practice

**PERCENTAGE OF PERSONS IN ATDs  
(out of total number of persons detained)**

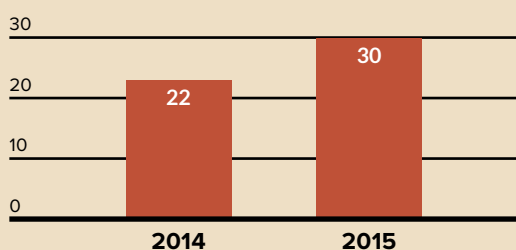


Source: Migracijos Departamentas, *Migration Yearbook 2014*, available at: <http://goo.gl/gRFhAR>; *Migration yearbook 2015*, p. 77, available at: <http://goo.gl/Fo5CaZ>.

- ✔ Mechanism allowing asylum-seekers to stay legally in the community.
- ✔ When residing in the community, asylum-seekers have access to basic rights (accommodation, medical and psychological assistance, education, legal assistance).
- ✔ Case management\* is provided in ATDs.

**GOAL 3** Ensure that conditions of detention meet international standards

**NUMBER OF MONITORING VISITS ORGANIZED BY UNHCR AND/OR PARTNER(S)**



- ✔ Lithuania is a party to the *Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*.

**LEGEND:** ✔ Yes   ✘ No   ◉ Partially  
N/A Not available   U Unknown

**SOURCE:** All indicators were compiled based on UNHCR and/or UNHCR's partner(s) monitoring visits and observations, except if otherwise stated.

\* See UNHCR *Detention Guidelines*, p.44.

seekers. In the case of two Afghan asylum-seekers,<sup>3</sup> the Supreme Court ruled that the applicants, as persons in situation of vulnerability or at risk, had to be provided with reception support and referred to the asylum procedure in line with international and EU standards.<sup>4</sup> This clearly contributed to a fewer resorts to detention in 2015 with the release of the last detained children in November 2015.

UNHCR conducted consultations with the FRC and the Lithuania State Border Guard Service (SBGS) to **secure LRCS' access to the detention unit**. Two monitoring visits were conducted following the grant of systematic access in August 2015. In total, in 2015, LRCS conducted 24 **monitoring visits** to border crossing points and territorial border guard units. The findings and related recommendations are provided in an Annual Border Monitoring Report to be submitted to the authorities by UNHCR in the course of 2016. In Lithuania, the Parliamentary Ombudsman's Office also monitors places of detention, including places of immigration detention and produces relevant reports within the preventive mechanism program under the *Optional Protocol to the Convention against Torture (OPCAT)*.<sup>5</sup>

Finally, UNHCR participated in **debates on the legislative package** aimed at transposing the EU directives into domestic law. The package was approved in November 2015 and provides for **more flexible community based accommodation arrangements for asylum-seekers**, including NGO-run reception facilities for asylum-seekers in situation of vulnerability or at risk and their family members and provision of accommodation places in local communities pursuant to a procedure to be approved by the Government. However, the law extends the possibility for resorting to a border procedure, hence potentially leading to broader use of detention at border-crossing points.

<sup>3</sup> With reference to *inter alia* Lithuania's Supreme Administrative Court's judgments in case A-1823-822/2015, available at <http://goo.gl/BE0N13>, case A-3714-662/2015, available at <http://goo.gl/Gl8c6E>, case A-1798-624/2015, available at <http://goo.gl/4Xkv1B>, and case A-2621-662/2015, available at <https://goo.gl/h04DV8>.

<sup>4</sup> With reference to the Supreme Court's judgment of 14 June 2015, case No E3K-3-412-690/2015, available at <http://goo.gl/U7C63G>.

<sup>5</sup> See annual report of the Parliamentary Ombudsman's Office, available at: <http://goo.gl/PPiQ1b>



TRAININGS ORGANIZED IN  
LITHUANIA DURING THE  
REPORTING PERIOD

2 on Asylum Law, including  
UNHCR *Detention Guidelines*

NUMBER OF PERSONS TRAINED  
IN LITHUANIA DURING THE  
REPORTING PERIOD

85 on Asylum Law, including  
UNHCR *Detention Guidelines*

## Gaps and challenges

X-ray-based age-assessment methods are widely in use despite doubts expressed by various experts regarding the reliability of these techniques. Second, the absconding rate remains high. In 2015, a significant share of the asylum decisions taken by the Migration Department were discontinuation decisions, predominantly based on the implicit withdrawal of the asylum claim, as a result of onward movements. Finally, despite important precedent-setting judgements referred to above, prolonged detention periods (6 and more months) have been observed in some cases. The quality of detention-related statistics also requires improvement, since relevant data is either unavailable or incomplete, which has implications for measuring the GDS' impact.

## Next steps

In the coming months, UNHCR's Regional Representation for Northern Europe will work closely with the authorities and other relevant stakeholders to address the identified challenges and consolidate good practices developed in the initial period of the roll-out. The envisaged community-based accommodation arrangements (relevant for both reception and ATD schemes) complemented by case management models should contribute to addressing absconding related concerns. To that end, capacity-building activities to assist NGOs and other relevant actors to run community-based ATDs and reception arrangements effectively will be organized in early 2017. Finally, in 2016, follow-up actions will be undertaken to safeguard the achieved results with regard to detention related decision-making and detention monitoring and to expand monitoring arrangements for other detention facilities, notably through engaging in discussion with relevant authorities.

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UNHCR Regional Representation for Northern Europe, August 2016.