

## LITHUANIA

### 1 Arrivals

#### 1 Total number of applications for asylum lodged, with monthly breakdown and percentage variation between years

Table 1:

Month	2003	2004	Variation +/- (%)
January	28	11	-60.72
February	13	3	-76.93
March	6	9	+50
April	24	6	-75
May	3	20	+566.66
June	14	7	-50
July	33	18	-45.46
August	6	35	+517.14
Sept.	9	30	+233.33
October	12	11	-8.34
November	32	11	-65.63
December	3	6	+100
<b>Total</b>	<b>183</b>	<b>167</b>	<b>-8.75</b>

Source: Migration Department, Ministry of Internal Affairs

#### 2 Breakdown according to the country of origin/nationality of applicant, with percentage variation

Table 2:

Country	2003	2004	Variation +/- (%)
Russian Federation	91	102	+12.08
India	25	0	-2500
Afghanistan	17	9	-47.06
Stateless	15	7	-53.34
Stateless (West Bank and Gaza Strip)	0	7	+700
Pakistan	14	20	+42.85
Azerbaijan	5	1	-80
Ukraine	3	2	-33.33
Vietnam	3	0	-300
Sierra Leone	2	0	-200
Iraq	1	0	-100
Georgia	1	2	+100
Iran	1	0	-100
Yemen	1	0	-100
Kyrgyzstan	1	1	0
Moldova	1	0	-100
Lebanon	1	0	-100
Belarus	1	4	+300
Nigeria	0	2	+200
Uzbekistan	0	1	+100

Australia	0	1	+100
Egypt	0	5	+500
Israel	0	1	+100
Kazakhstan	0	2	+200
<b>Total</b>	<b>183</b>	<b>167</b>	<b>-8.75</b>

Source: Migration Department, Ministry of Internal Affairs

### 3 Persons arriving under family reunification procedure

None (2003: None).

### 4 Refugees arriving as part of a resettlement programme

Lithuania does not operate any resettlement programmes.

### 5 Unaccompanied minors

11 (2003: 24).

## 2 Recognition Rates

### 6 The statuses accorded at first instance and appeal stages as an absolute number and percentage of overall decisions

Table 3:

Statuses	2003		Appeal		2004		Appeal	
	Number	%	Number	%	Number	%	Number	%
No status awarded	56	10.3	33	94.3	50	10.66	20	90.9
Convention status	3	0.6	0	0	12	2.55	0	0
Subsidiary status	485	89.2	2	5.7	407	86.78	2	9.1
Other								
<b>Total</b>	<b>544</b>	<b>100</b>	<b>35</b>	<b>100</b>	<b>469</b>	<b>100</b>	<b>22</b>	<b>100</b>

Source: Migration Department, Ministry of Internal Affairs

### 7 Refugee recognition rates (1951 Convention: as an absolute number and as a percentage of total decisions) according to country of origin, at first instance and appeal stages

Table 4:

Country of origin	2003		Appeal		2004		Appeal	
	Number	%	Number	%	Number	%	Number	%
Russian Federation	2	2.2	0	0.0	12	2.55	0	0.0
Ukraine	1	3.33	0	0.0	0		0	0.0
Total	3	1.6	0	0.0	12	2.55	0	0.0

Source: Migration Department, Ministry of Internal Affairs

**8 Subsidiary and other status granted (as an absolute number and as a percentage of total decisions) according to country of origin, at first instance and appeal stages**

Table 5:

Country of origin	2003		2004					
	First instance		Appeal		First instance		Appeal	
	Number	%	Number	%	Number	%	Number	%
Afghanistan	16	3.29			26	6.38	-	0.0
Armenia	3	0.61			1	0.24	-	0.0
Azerbaijan	1	0.20			2	0.49	2	9.09
Belarus	11	2.26			1	0.24	-	0.0
China	1	0.20			-	0.0	-	0.0
Congo DR	2	0.41			1	0.24	-	0.0
Egypt	-	0.0			-	0.0	6	27.27
Estonia	1	0.20			-	0.0	-	0.0
Iraq	2	0.41			2	0.49	-	0.0
Israel	1	0.20			-	0.0	-	0.0
Kazakhstan	3	0.61			4	0.98	-	0.0
Lebanon	-	0.0			-	0.0	1	4.54
Nigeria	1	0.20			2	0.49	2	9.09
Poland	5	1.03			1	0.24	-	0.0
Russia	409	84.32			348	85.50	2	9.09
Somalia	5	1.03			1	0.24	1	4.54
Sri Lanka	3	0.61			4	0.98	-	0.0
Stateless	10	2.06			5	1.22	2	9.09
Stateless (West Bank and Gaza Strip)	-	0.0			2	0.49	-	0.0
Ukraine	10	2.06			6	1.47	-	0.0
Yemen	-	0.0			1	0.24	-	0.0
Vietnam	-	0.0			-	0.0	3	13.63
Pakistan	-	0.0			-	0.0	3	13.63
<b>Total</b>	<b>485</b>	<b>100</b>			<b>407</b>	<b>100</b>	<b>22</b>	<b>100</b>

Source: Migration Department, Ministry of Internal Affairs

**3 Returns, Removals, Detention and Dismissed Claims**

**9 Persons returned on safe third country grounds**

None in 2004 (2003: 5).

**10 Persons returned on safe country of origin grounds**

27 in 2004 (2003: 0).

7 persons returned to Russia, 5 to Pakistan, 4 to Egypt, 2 to Belarus, 1 to Israel, 1 to Ukraine, 1 to Uzbekistan, 1 to Georgia, 1 to Kirgistan, 4 not indicated.

**11 Number of applications determined inadmissible**

1 in 2004 (2003: 5).

## **12 Number of asylum seekers denied entry to the territory**

None in 2004 (2003: 5).

## **13 Number of asylum seekers detained, the maximum length of and grounds for detention**

37 in 2004 (2003: 2).

Thirty seven asylum seekers were detained in 2004. Article 113 of the Law on the Legal Status of Aliens provides that a non-national may be detained on the following grounds:

- In order to prevent the non-national from entering into the Republic of Lithuania without a permit;
- If the non-national has illegally entered into or stays in the Republic of Lithuania;
- During an attempt to return the non-national to the country from whence he has come if he/she has been refused entry into the Republic of Lithuania;
- Where the non-national is suspected of using forged documents;
- If a decision on the expulsion of the non-national from the Republic of Lithuania has been taken;
- In order to stop the spread of dangerous and especially dangerous communicable diseases; and
- Where the non-national's stay in the Republic of Lithuania constitutes a threat to public security, public policy or public health.

The police or any other law enforcement institution officer may detain foreigners for a period not exceeding 48 hours. For a period of over 48 hours foreigners are being detained by a court order at the Aliens' Registration Centre. As can be seen from the case law, if an asylum seeker is granted temporary territorial asylum, the court passes decision not to detain the asylum seeker during the asylum determination procedure or an alternative measure for detention such as accommodation at the Aliens' Registration Centre without restriction of freedom of movement is being applied (Article 115 of the Law on the Legal Status of Aliens). Article 119 of the Law on the Legal Status of Aliens provides that upon the disappearance of the grounds for the alien's detention the alien shall be immediately released based on the effective court's decision.

## **14 Deportations of rejected asylum seekers**

40 in 2004 (2003: 42).

19 rejected asylum seekers were deported to Russia, 9 to Egypt, 6 to Pakistan, 2 to Belarus, 1 to Afghanistan, 1 to Azerbaijan, 1 to Turkmenistan, 1 to Nigeria.

## **15 Details of assisted return programmes, and numbers of those returned**

Lithuania did not have assisted return programmes in 2004.

## **16 Number of asylum seekers sent back to the Member State responsible for examining the asylum application under the Dublin II Regulation**

None in 2004 (2003: 0).

## **4 Specific Refugee Groups**

### **17 Developments regarding refugee groups of particular concern**

#### *Unaccompanied minors*

The new Law on the Legal Status of Aliens introduced special provisions and guarantees to unaccompanied minor asylum seekers. The principle of 'safe third country' may not be applied to a minor who is unaccompanied by his parents or legal representatives while making a decision on the admittance of an asylum seeker to the territory. Article 114 of the Law on the Legal Status of Aliens provides that a minor can be detained in exceptional cases only. After an unaccompanied minor submits an application for asylum he must be accommodated at the Refugee Reception Centre if the

guardian appointed to the minor does not desire otherwise (Article 79 of the Law on the Legal Status of Aliens). Article 9.5 of the Order of the Minister of Internal Affairs of 15<sup>th</sup> November 2004 on the Procedure of Investigation of the Applications for Asylum, Adoption and Execution of Decisions establishes that during the interviews with unaccompanied minors, the guardian of the child and the child's legal representative must be present. Applications of unaccompanied minors should be examined as soon as possible (Article 101 of the Order of the Minister of Internal Affairs of 15<sup>th</sup> November 2004 on the Procedure of Investigation of the Applications for Asylum, Adoption and Execution of Decisions).

#### *Refugee women*

Upon the request of a female asylum seeker, all interviews and other procedures during the asylum procedure should be conducted by a female person (Article 99 of the Order of the Minister of Internal Affairs of 15 November 2004 on the Procedure of Investigation of the Applications for Asylum, Adoption and Execution of Decisions).

#### *Other groups of particular concern*

Besides unaccompanied minors seeking asylum, traumatised asylum seekers or tortured foreigners, foreigners with a mental disorder, foreigners of a pensionable age, pregnant women and foreigners in need of constant health care belong to a group of particular concern. The Order of the Minister of Internal Affairs of 15 November 2004 on the Procedure of Investigation of the Applications for Asylum, Adoption and Execution of Decisions contains special provisions regarding this group of asylum seekers. Before carrying out an interview with an asylum seeker, who is mentally unfit, ill or has suffered torture, inhumane or degrading treatment, it is necessary to consult a doctor on how to behave or what questions to avoid during the interview. If it is necessary, a doctor or other medical worker can participate in the interview. If there are signs that the non-national has suffered torture, inhumane or degrading treatment, officials must not be dressed in uniforms during the interview.

## **5 Legal and Procedural Developments**

### **18 New legislation passed**

On 29<sup>th</sup> April 2004 the Law on the Legal Status of Aliens was adopted; this new Law introduced new shorter terms for the appeal of all asylum relevant decisions.

On 21<sup>st</sup> October 2004 Order of the Minister of Social Affairs and Labour on the Schedule of Support for the Integration of Foreigners Granted Asylum in the Republic of Lithuania was adopted

On 15<sup>th</sup> November 2004 Order of the Minister of Internal Affairs on the Procedure of Investigation of the Applications for Asylum, Adoption and Execution of Decisions was adopted

On April 28<sup>th</sup>, 2005 amendments of the Law on Health Insurance and the Law on the Health System were adopted.

### **19 Changes in refugee determination procedure, appeal or deportation procedures**

The Law on the Legal Status of Aliens of 29<sup>th</sup> April 2004 introduced some new important changes in the asylum system, namely the unified asylum procedure for Convention refugees and cases of subsidiary protection, temporary protection regime, and "Dublin II" provisions. This new Law on the Legal Status of Aliens also introduced new shorter terms for the appeal of all asylum relevant decisions. Compared to the previous Law on Refugee Status, the time for submitting appeals was shortened from 14 days to 7 days. Moreover, this time starts from the day of adoption of the decision not from the day when the asylum seeker was informed of the decision. Therefore, in all appeals asylum seekers are obliged to submit a request to renew the term. The term might be renewed after individual consideration; however, there are no guarantees that in all cases it will be renewed.

## **20 Important case-law relating to the qualification for refugee status and other forms of protection**

There was no important case law relating to the qualification for refugee status and other forms of Protection.

## **21 Development s in the use of the exclusion clauses of the Refugee Convention in the context of the national security debate**

According to practice in Lithuania, where asylum seekers fail to fulfil the “inclusion clauses”, exclusion clauses need not be invoked. However, a number of non-nationals were refused subsidiary protection and received orders of deportation, after the Lithuanian Security Department recognised them as being dangerous to Lithuanian public order and security. Neither the non-national nor his/her legal representative are permitted to see the material from the State Security Department stating the grounds on which the non-national is refused subsidiary protection while preparing an appeal to the court.

## **22 Developments regarding readmission and cooperation agreements**

No developments.

# **6 The Social Dimension**

## **23 Changes in the reception system**

According to Art. 79 of the Law on the Legal Status of Aliens, asylum seekers are accommodated at the Aliens' Registration Centre. Having legally entered the Republic of Lithuania, an asylum seeker who has been granted temporary territorial asylum may be permitted to settle in the place of residence of his choice, if the asylum seekers so desires. Financial assistance for such accommodation is not provided. Unaccompanied minor asylum seekers are provided with accommodation at the Refugee Reception Centre, unless this is objected to by his/her temporary guardian (curator) or other lawful representative.

The Law on the Legal Status of Aliens has drastically reformed the asylum seekers' reception system in Lithuania, providing the Aliens' Registration Centre in the town of Pabrade (hereafter – Pabrade Centre) with the status of the only accommodation facility for all asylum seekers except for unaccompanied minors in Lithuania. Under the old legislation, asylum seekers were accommodated in the Aliens' Registration Centre during the first period (maximum 2 months) of their procedure, after which they were transferred to the Refugee Reception Centre. This institutional reform might be said not to be in line with international standards for the reception of asylum seekers, as well as the EU Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers (hereafter – Reception directive) for the following reasons:

As it was previously used mainly as a detention facility for illegal migrants and also as a temporary arrangement to accommodate asylum seekers at the initial stage (for 4-5 weeks) of the asylum procedure, the Pabrade Centre lacks the character of a social institution. Under the new asylum legislation, the asylum procedure in first instance may last for up to three months (six months in exceptional cases). The government considered it undesirable to transfer asylum seekers in the course of such a short procedure. Hence, asylum seekers are now hosted in one centre for the entire duration of the procedure.

Social workers or psychologically trained staff are not employed in the Centre. This situation partially improved in November 2004, when a social assistance project was started in the Centre funded by the European Refugee Fund. However, the lack of social, physiological and rehabilitation services remains obvious in the Centre.

Staff members of the Pabrade Centre mainly dealt with detention and expulsion of irregular migrants before the adoption of the Law on Aliens' Legal Status and, therefore, are not trained to deal with

asylum seekers, especially with persons with special needs. This does not apply to the officials of the Asylum Department who are working at the Centre.

Once accommodated in the Centre, asylum seekers with special needs, particularly women, children, elderly people and the disabled find themselves in a very poor social environment, surrounded by uniformed border guards and in the presence of detained illegal migrants.

To sum up, the institutional reform of the reception system was not in line with Articles 17, 18, 20 and 24 of the Reception Directive, as the reception conditions for asylum seekers with special needs, including women, children, elderly and disabled people have been significantly jeopardised following the adoption of the Law on Aliens' Legal Status. UNHCR and NGOs have criticised the current reception system, but the Government has not shown any indication that it wishes to change it so far.

#### **24 Changes in the social welfare policy relevant to refugees**

There were no significant changes in social welfare policy relevant to refugees in 2004. After the period of social integration refugees granted refugee status have the same social rights as all permanent residents of Lithuania. Asylum seekers granted subsidiary protection, or temporary protection are temporary residents and do not have such social rights.

In July 2004 the European Committee of Social Rights published its findings on the situation in Lithuania. It was especially concerned about the social rights of foreign nationals temporarily residing in Lithuania. The same concern was expressed on 7<sup>th</sup> June 2004 in the Committee on Economic, Social and Cultural Rights concluding observations on the situation in Lithuania. Due to the permanent residence clause incorporated into Lithuania's health and social welfare legislation, persons granted subsidiary protection including women, children, elderly and disabled persons faced serious obstacles trying to access social assistance and/or health care services in Lithuania. Although both Convention refugees and persons granted subsidiary protection are entitled to benefit from state funded social integration measures, persons granted subsidiary protection found themselves beyond the social security system and to a large extent, the health care system once the individual integration programme (usually after 1.5 years) ended. Thus, the additional efforts should be definitely undertaken by the Lithuanian authorities to examine and amend the relevant social security and health care legislation to ensure its compliance with Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.

The first significant step was made with the amendments of 28 April 2005 of the Law on the Health System and the Law on Health Insurance, which allowed vulnerable groups of temporary residents to access the health system of Lithuania. According to Art. 6 of the Law on Health Insurance, after the period of social integration health insurance paid by the State is provided to all refugees granted refugee status, and to a cross section of refugees granted subsidiary protection, or temporary protection –like those working in Lithuania, children, single parents, pregnant women, particularly ill persons, and persons at the age of retirement. Other refugees granted subsidiary protection, or temporary protection do not have the right to medical insurance. According to Art. 6 of the Law on Health Insurance, it is foreseen that a special governmental order on providing medical services to refugees granted subsidiary protection, or temporary protection will be prepared, but it has not yet been prepared.

#### **25 Changes in policy relating to refugee integration**

A new Order of the Minister of Social Affairs and Labour of 21 October 2004 on Providing State Assistance for the Integration of Aliens Granted Asylum in the Republic of Lithuania made some changes in policy relating to refugee integration. According to the Order, the initial phase of integration is organised in the Refugee Reception Centre, where refugees (granted refugee status, subsidiary protection, or temporary protection) are accommodated for 6 months. Then they are accommodated for 12 months in rented flats in different municipalities. Accommodation at the Refugee Reception Centre might be extended to 12 months for all refugees or 18 months for vulnerable groups of refugees. Accommodation in the municipalities could be extended for vulnerable groups of refugees (no maximum period is foreseen).

## **26 Changes in family reunion policy**

Family reunification relevant provisions set out in the Law on the Legal Status of Aliens Law raise serious concerns with regard to their conformity with the EU Family Reunification Directive. According to Art. 30 of the Law on the Legal Status of Aliens, parents whose children have been recognised as refugees in Lithuania do not have a right to reunification with them. Parents granted asylum in Lithuania have a right to reunification with their children only after two years of legal residence in Lithuania.

Art. 30 of the Law on the Legal Status of Aliens states that refugees granted subsidiary protection, or temporary protection do not have a right to family reunification. On the other hand, Art. 43 of the Law on the Legal Status of Aliens states the opposite. This contradiction has not been solved in practice, as in 2004 there were no cases of refugee family reunification.

## **7 Other Policy Developments**

### **27 Developments in resettlement policy**

Lithuania does not operate any resettlement programmes.

### **28 Developments in return policy**

There were no significant changes in return policy in 2004. However, since the end of 2004, a voluntary return programme for asylum seekers, refugees and foreigners with subsidiary protection, financed by the European Refugee Fund is being implemented by IOM (International Organisation for Migration). Under this Programme travel expenses and 75 euros as a repatriation allowance may be paid to a refugee wishing to return voluntarily. Counselling services on repatriation are also provided under this programme.

### **29 Developments in border control measures**

On 28<sup>th</sup> April 2004, the Minister of the Interior passed the Amendment of Border Checks Order, which came into force on 1 May 2004. The Amendment establishes the new order of the EU internal border checks from the EU accession. Paragraph 25 of the Border Checks Order (amended on 28 April 2004) in general establishes only minimal check levels for citizens of Lithuania, other EU countries, Iceland, Norway, Liechtenstein and Switzerland.

### **30 Other developments in refugee policy**

The Law on the Legal Status of Aliens also made significant changes to refugee detention policy. The Law introduced the same detention grounds and guarantees against detention for asylum seekers as other migrants. The Law significantly improved the situation of illegal migrants, who received a great many guarantees against detention (e.g., free legal assistance, periodical judicial review, alternative measures to detention, etc.), which were previously only provided for asylum seekers. The Law also introduced a procedure for periodical judicial review of a detention order on the initiative of the non-national concerned. Previously even asylum seekers did not have this right. The Law states that unaccompanied minors can only be detained in exceptional circumstances.

On the other hand, the Law worsened the situation of asylum seekers. Previously detention of asylum seekers was considered possible only in exceptional circumstances. Now the Law expands the grounds for detention, weakens the alternative to detention measures, and leaves significant space for detention of undocumented asylum seekers or asylum seekers who are regarded as a threat to State security. The Law does not establish a maximum period of detention. In practice foreigners might be detained for quite long periods until their deportation is practically arranged.



## **8 Political Context**

### **31 Government in power during 2004**

A coalition Government consisting of the Lithuanian Social Democrats and Social Liberals was in power until the elections in the autumn of 2004. After the elections a coalition Government consisting of the Lithuanian Social Democrats, Social Liberals, Labour Party and Party of Farmers was formed. The Prime Minister (since 3 July 2001) is still the Social Democrat, Algirdas Mykolas Brazauskas.

### **32 Governmental policy vis-à-vis EU developments**

In spite of the provision in the Law on the Legal Status of Aliens stating that Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers has already been formally incorporated, problems in practice are still observed. Thus the implementation of this and new directives still needs to be ensured by the Government.

### **33 Asylum in the national political agenda**

Asylum has not been widely discussed in the political agenda. However, during the preparation of the Law on the Legal Status of Aliens, there was a hot discussion between the Committee of Human Rights and the Committee of National Security. The final text of the Law was mostly influenced by the Committee of National Security. National security considerations were also broadly reflected during the debate on the Law in Parliament.

**Biography**

Ms. Migle Cirbaite, Mr. Laurynas Biekša

**LITHUANIAN RED CROSS**

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