

NATIONAL ACTION PLAN Lithuania

What is the UNHCR Global Strategy - Beyond Detention?

In June 2014, UNHCR launched its Global Strategy - Beyond Detention 2014-2019, which aims to support governments to end the detention of asylum-seekers and refugees. The Strategy lays out three main goals: (1) to end the detention of children; (2) to ensure that alternatives to detention (ATDs) are available in law and implemented in practice; and (3) to improve conditions of detention, where detention is necessary and unavoidable, to meet international standards. To support the implementation of the Global Strategy, focus countries have developed National Action Plans ('NAP'). This document is a summary and public version of the NAP.

All documents relating to the Global Strategy - Beyond Detention 2014-2019 are available at: <http://www.unhcr.org/detention>

The process of developing the National Action Plan

In Lithuania, the National Action Plan ('NAP') was developed through bilateral consultations with various stakeholders including detention authorities, the Child Rights Ombudsperson's Office, the Parliamentary Ombudsperson Office and NGOs working on human rights and assisting refugees. Information received during these consultations inter alia 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 also briefed on the envisaged activities. The Global Strategy was launched at and the NAP presented at a conference jointly organised by UNHCR, the Parliamentary Human Rights Committee and the Parliamentary Ombudsman Office, held at the Lithuanian Parliament in March 2015.

The actions foreseen

Goal 1. End the detention of children

Under Goal 1, the NAP activities will focus on (i) making appropriate alternative reception/care arrangements for families with children available, (ii) ensuring that child-sensitive screening and referral procedures are in place, and (iii) securing immediate release of children from detention and their placement in forms of appropriate accommodation. Activities will include inter alia a mapping of current practices and an analysis of Lithuanian case law, roundtable discussions, strategic interventions in national courts and submissions to legislative debates in relation to the transposition of the EU recast Reception Conditions Directive. A particular emphasis will be placed on making professional legal assistance and representation available for detained families with children, including following up on legal interventions to secure the immediate release of children from detention. Following a number of precedent-setting judgments of the Supreme Administrative Court of Lithuania on child detention starting with February 2015 underlining that a child may be detained only in exceptional cases, there have been no families with children in immigration detention in Lithuania. Draft amendments to the Aliens Law that provide for community-based reception arrangements for vulnerable asylum-seekers and their family members, should they be adopted, will represent another important development capable of ensuring that alternative reception/care arrangements for families with children are in place, in line with Goal 1 of the Strategy.

Goal 2. Ensure that alternatives to detention are available in law and implemented in practice

The key objectives for ATD related activities will be to (i) improve procedures to assess and review the necessity, reasonableness and proportionality of detention, (ii) introduce screening and referral mechanisms to ensure that asylum-seekers are referred to alternatives to detention, and (iii) prioritise community-based reception arrangements. As regards (i) and (ii), particular attention will be attached to the

UNHCR Global Strategy

Beyond Detention 2014-2019

A global strategy to support Governments to end the detention of asylum-seekers and refugees



need to consolidate current case law and administrative practices, such that the requirements of necessity, reasonableness and proportionality are properly assessed in detention related procedures. In this respect, expansion of the national network of asylum and immigration lawyers and offering relevant training to the judiciary, legal practitioners and border guard/police officers are key priority activities. A regional seminar 'Detention, Alternatives to Detention and Access to an Effective Remedy for Asylum-Seekers in the Baltic States' will be organised by UNHCR in cooperation with the Council of Europe and held in Vilnius in September 2015. This seminar will provide judges, lawyers and border guards/police with up-to-date information on the latest detention related developments in international and European law, and constitutes a key training intervention in 2015. Advocating for expanding reception support to asylum-seekers staying outside the Foreigners Registration Centre is another priority activity in relation to (iii), to be implemented by UNHCR and NGO partners in 2015.

Goal 3. Ensure that conditions of detention, where detention is necessary and unavoidable, meet international standards

Continuing to access and to monitor places of immigration detention, and awareness-raising among the personnel of detention facilities on applicable international standards regarding conditions of detention and standards of treatment for detainees, are the two activities foreseen with a view to ensuring that conditions of detention meet international standards in line with Goal 3. The UNHCR, Association for the Prevention of Torture and International Detention Coalition's *Immigration Detention Monitoring Manual* will be used as a key reference tool when carrying out consultations with the detention authorities. A seminar on standards regarding conditions of immigration detention for detention personnel, to be carried out in cooperation with the Lithuanian Red Cross, is a key training event foreseen in this field in 2015.

Detention overview

A series of legislative initiatives and developments in Lithuanian case law have taken place in the area of detention in recent years leading to mixed progress as regards the availability of safeguards against unlawful or arbitrary detention of asylum-seekers. Gaps and challenges that need to be addressed include the lack of guidelines for police and border guards on how to assess the necessity, reasonableness and proportionality criteria, the application of standards to assess the risk of absconding of asylum-seekers, the limited application of alternatives to detention or how to respond to vulnerability in the context of detention relevant procedures and in this regard, an absence of a country level mechanism for assessing vulnerability/specific needs of asylum-seekers for the purpose of detention proceedings, a tendency to authorise long periods in detention and the need to improve the quality of detention-related legal assistance. Frequent resort to pre-trial investigation in connection with irregular border crossing is another area of concern. Finally, while material conditions of detention have been improving and NGO personnel have the possibility to meet with detainees, full access to accommodation area of detainees needs to be further promoted to ensure the availability of a system of regular monitoring in line with the UNHCR-APT-IDC, *Immigration Detention Monitoring Manual*.

Good practices and alternatives to detention

In general, a speedy judicial review, including a subsequent judicial review of detention orders, alongside State funded legal aid, have proven to be effective guarantees capable of reducing the scale and intensity of the detention of asylum-seekers. The necessity and proportionality requirements have been articulated by Lithuanian courts. ATDs are available in law and are increasingly becoming an important element of guarantees against arbitrary detention in practice. As a general rule, children are currently not detained in Lithuania, and a system of community-based ATDs to be run by NGOs has been proposed by the authorities. Such a system would complement the current system of asylum-related ATDs that includes (i) accommodation of asylum-seekers in the semi-open part of the Foreigners Registration Centre (FRC); (ii) placing of unaccompanied or separated children at a social institution, i.e. at the Refugee Reception Centre; and (iii) periodic reporting to the territorial police office.

For more information, please contact Vladimiras Siniovas, siniovas@unhcr.org

UNHCR Regional Representation for Northern Europe, October 2015