



Submission by the United Nations High Commissioner for Refugees
for the Office of the High Commissioner for Human Rights' Compilation Report
- Universal Periodic Review:

LITHUANIA

THE RIGHT TO ASYLUM

I. Background information and current conditions

Lithuania ratified the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter referred to jointly as the 1951 Convention) in 1997. Lithuania has also acceded to the most important international human rights conventions, including the *European Convention on Human Rights and Fundamental Freedoms* (ECHR). Currently, there is discussion about possible accession to the *1961 Convention on the Reduction of Statelessness*.

The Ministry of the Interior (MoI) and the Migration Department are the main government bodies responsible for persons of concern to UNHCR. Together they have an overall policy/planning responsibility for asylum issues. The asylum unit of the Migration Department conducts refugee status determination. All procedural decisions on asylum may be appealed in two instances: to the Regional Administrative Court and to the Supreme Administrative Court. State funded lawyers and a number of NGOs provide legal aid to asylum-seekers.

The State Border Guard Service is responsible for the initial processing of asylum applications made at the border and may, in consultation with the Migration Department, make a decision on an asylum-seeker's admissibility. The State Border Guard Service is also responsible for the administration of the Foreigners' Registration Centre, the reception centre for asylum-seekers in Pabrade. The Ministry of Social Affairs is responsible for integration of refugees and persons granted subsidiary protection. The Ministry manages the Refugee Reception Centre in Rukla and is also responsible for administration of the Lithuanian European Refugee Fund projects. The recent severe recession has resulted in a significant decrease of state-funded social programs, budget cuts, and the reduction of staff at all governmental agencies and institutions.

Lithuania remains a transit country for mixed-migratory movements. Illegal migration and human trafficking are continuously on the rise; the apprehension of irregular migrants on the border with Belarus and the Russian Federation has increased.

Lithuania consistently receives a relatively low number of asylum applicants compared with its neighbouring Scandinavian countries. There were 211 new asylum applications in 2009 and 373 in 2010. The increase in the number of applications in 2010 was caused by an influx of applicants originating from Georgia, who comprised 63% of all applications lodged in Lithuania in this year. The last months of 2010 saw a significant rise in the number of asylum applications lodged at the border.

In 2010, the total number of persons granted international protection has fallen in Lithuania - from 42 persons in 2009 to 15 persons in 2010. Only one person (a Russian citizen) was recognized as a refugee on the basis of the 1951 Convention. Fourteen persons were granted subsidiary protection (8 from Afghanistan, 1 Armenia, 1 Belarus, 1 Pakistan and 3 from the Russian Federation). The overall recognition rate was 8% in 2010, as compared with 29% in 2009 and 63% in 2008.

Non-governmental organizations such as the Lithuanian Red Cross Society, Vilnius Caritas, Tolerant Youth association, and the Institute of Consumers Rights have assisted under the EU European Refugee Fund (ERF) with the reception and integration of persons granted protection in Lithuania. Their activities have primarily bridged gaps within the system, such as the Caritas Day Centre in Pabrade supplementing poor reception conditions in the Foreigners' Registration Centre, and the Lithuanian Red Cross Society Day Centre in Kaunas bolstering limited support for integration. NGOs also raise awareness about refugees and their situation in Lithuania through studies, trainings and discussions. ERF remains the main source of funding for NGOs' activities in Lithuania, as they are not otherwise supported by the state.

II. Achievements and Best Practices

The Government of Lithuania cooperates with UNHCR in protecting and assisting refugees and other persons in need of international protection. The UNHCR Regional Office in Stockholm maintains regular contacts with the Government and other authorities directly and through its Liaison Officer in Lithuania. UNHCR's role is reflected in Article 71(8) of the Law on Legal Status of Aliens (2008), which stipulates that asylum-seekers have the right to apply to and meet with UNHCR.

UNHCR welcomes the improvement of reception conditions for asylum-seekers in the Foreigners' Registration Centre in Pabrade. The establishment of two new permanent posts of a social worker and psychologist in January 2008 ensures a minimum level of social assistance and psychological aid to persons accommodated in the Centre. UNHCR also welcomes the introduction in 2010 of a procedure to identify asylum-seekers with special protection needs upon arrival to the Centre, so that these needs are properly addressed during their stay and throughout the asylum procedure.

In June 2010, the UNHCR, Lithuanian Red Cross Society and State Border Guard Service signed a Tripartite Agreement on Border Monitoring, which makes border procedures more transparent and enhances cooperation between NGOs and state officials in Lithuania. In

2010, the Lithuanian Red Cross Society and State Border Guards Service initiated a joint ERF project aimed at improving reception standards at the border crossing points.

III. Challenges and Constraints

3.1. Reception Conditions

UNHCR is concerned with the existing reception conditions for asylum-seekers. The Law on the Legal Status of Aliens (2008) provides for the Foreigners' Registration Centre to serve as the only facility for all asylum-seekers, besides unaccompanied children, during the processing of asylum claims. This provision has led to mandatory accommodation of all asylum seekers including single women and those who are traumatized or have special needs. The Centre is deficient in social, psychological and rehabilitation services, particularly as regards traumatized-asylum seekers who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence. Persons with special needs find themselves in a poor social environment, surrounded by uniformed border guards and in close proximity to the undocumented migrants accommodated in the detention facility.

Of additional concern is the lack of measures to prevent assault and harassment of single women in the Centre. As all asylum-seekers are accommodated in the same building, single women live with single men. Meanwhile, the Border Guards Service administering the Centre lacks sufficient means to prevent violence and the local police unit tends to ignore the internal problems of the Centre.

During missions to Lithuania in 2008 and 2009, the UNHCR Regional Office raised the issue and advocated for improvement of conditions with various stakeholders.

Recommendation: Provide appropriate reception conditions for asylum-seeking unaccompanied women and women with children.

3.2. Family Reunification

There are several gaps in the existing legislation on family reunification. According to Article 2 (22) of the Law on Legal Status of Aliens (2008), family members of an asylum applicant are “the spouse of the asylum applicant or the person with whom a registered partnership has been contracted, the children of the couple or one of them (adopted children irrespective of whether they have been adopted according to the legal acts of the Republic of Lithuania) (hereinafter - children) under the age of 18, on condition that they are not married, as well as the father (adoptive father), mother (adoptive mother) (hereinafter – father, mother) or a guardian (custodian) of the minor asylum applicant”. The law does not include other persons with whom there is a social, economic or emotional dependency and who have been living in the same household as the applicant.

Furthermore, while the Law on Legal Status of Aliens grants the right to family members to join a recognized refugee at a later date, it does not give family members the right to be granted derivative refugee status.¹ Family members are only accorded a temporary residence permit and not a permanent residence permit as is provided to those granted refugee status in Lithuania, although an alien child under 18 may get the same residence right as the principal applicant.

¹ Article 40, part 1 (3) states: “A temporary residence permit may be issued or replaced to an alien if it is a case of family reunification”.

The provisions regarding family reunification only apply when both of the alien spouses or aliens who have contracted a registered partnership are not younger than 21. Furthermore, beneficiaries of subsidiary protection are not eligible for family reunification at all, regardless of the length of their stay in Lithuania. During the mission of the Regional Representative in 2008, UNHCR raised this issue of granting family reunification to persons with subsidiary protection.

The law falls short of the obligation in Article 10 of the Convention on the Rights of the Child (CRC) to deal with applications of a child or his or her parents to enter or leave a State for the purposes of family reunification in a “positive, humane and expeditious manner.”² It is also contrary to the UNHCR Executive Committee’s conclusions that joining family members should be granted the same legal status as the head of the family who is formally recognized as a refugee and that the principle of family unity requires the reunification of other dependent relatives and members of the family unit.³

Recommendation: Amend the Aliens Legislation to adequately reflect the principle of family unity.

3.3. The Right to Work

For some asylum-seekers, the asylum procedure extends for a period of 6 months, and can be much longer for those refused protection, as they must wait for their appeal to be considered by national courts. Under the Aliens Legislation, asylum-seekers do not have a right to work regardless of how much time has passed since their initial application. Only those granted asylum and issued with residence permits may legally work. UNHCR raised this issue with the authorities during the 2008 mission of the Regional Representative to Lithuania.

Recommendation: Consider granting the right to work to asylum-seekers who have been in Lithuania for over 6 months.

3.4. Access to Social Welfare

Although Lithuania grants international protection to beneficiaries of subsidiary protection, it effectively excludes them from accessing social welfare. The resulting gap in the protection and integration system has worsened during the recent economic crisis and accompanying high unemployment. While beneficiaries of subsidiary protection are accorded a temporary residence permit, only persons with permanent residency can benefit from the social welfare system. Beneficiaries of subsidiary protection are thus excluded from social welfare provided by the State after the conclusion of a one-year integration programme. They may not apply for social welfare, social housing or assistance to the disabled or victims of violence. Due to the security and human rights situation in their countries of origin, persons with subsidiary protection may have their residency permits extended, meaning that they may stay in Lithuania for up to five years without benefiting from any social assistance.

UNHCR has addressed this issue many times during meetings with Lithuanian officials and in writing to the Government of Lithuania in spring of 2010. UNHCR encouraged Lithuanian

³ UN High Commissioner for Refugees, *Family Reunification*, 21 October 1981, No. 24 (XXXII) – 1981, available at: <http://www.unhcr.org/refworld/docid/3ae68c43a4.html>.

authorities to look into the possibility of including beneficiaries of subsidiary protection in the social welfare system. So far, however, the issue has not been resolved by the authorities.

Recommendation: Allow beneficiaries of subsidiary protection access to social welfare.

3.5. Access to Healthcare

Article 47 of the Lithuanian Law of Health Care Systems grants beneficiaries of subsidiary protection the right to health care funded by the state, only if an order is adopted by Lithuanian Government or other authorized institution. However, such an order has not been adopted and it is thus impossible to realize this right in practice. The lack of access to healthcare can be an overwhelming obstacle to normal life, particularly as residency permits for persons under subsidiary protection are usually prolonged for longer periods, as discussed above.

UNHCR has also addressed this issue during meetings with Lithuanian officials and in writing to the Government of Lithuania encouraged Lithuanian authorities to remove obstacles for beneficiaries of subsidiary protection to implement their right to health care. However, so far the issue has not been resolved.

IV. Recommendations

- Improve reception conditions for asylum applicants with specific needs, such as unaccompanied women and women with children, by providing them with appropriate separate accommodation.
- Review and amend the Law on Legal Status of Aliens (2008) to address issues related to family unity and:
 - extend the definition of family members to include other persons with whom there is a social, economic or emotional dependency and who have been living in the same household as the applicant;
 - grant the same permanent residence rights to family members of a refugee;
 - guarantee that the application of a child or his parents to enter or leave a State is dealt with in a positive, humane and expeditious manner, in accordance with article 10 of the CRC;
- Provide beneficiaries of subsidiary protection with the possibility of family reunification;
- Consider granting a right to work to asylum-seekers after 6 months of stay in asylum procedure;
- Guarantee beneficiaries of subsidiary protection access to social welfare;
- Ensure that beneficiaries of subsidiary protection have effective access to healthcare.

THE RIGHT TO A NATIONALITY

I. Background information and current conditions

Lithuania is party to the *1954 Convention relating to the Status of Stateless Persons*, but is not yet party to the *1961 Convention on the Reduction of Statelessness*, or the *European Convention on Nationality*.

Lithuania has few stateless persons as compared with the other Baltic states of Latvia and Estonia. The stateless population has decreased in recent years. In 2006, there were 7,108 stateless persons residing in Lithuania with permanent residence permits, primarily ex-citizens of the former Soviet Union who settled in Lithuania before 1993. An additional 107 stateless persons, mostly newly arrived, held temporary residence permits. In 2008, there were 5,900 stateless persons in Lithuania, 240 of who became Lithuanian citizens during the year. In the end of 2009 there were 3,902 stateless persons in Lithuania and in 2010 this number further decreased to 3,674. The sudden decrease in numbers was related to high emigration rates driven by the economic crisis and increased unemployment.

Stateless persons are considered aliens and governed by the Law on Legal Status of Aliens (2008). The majority holds permanent residence permits and are for this reason able to enjoy their social rights.

The 2010 amended Law of the Republic of Lithuania on Citizenship guarantees that children born to stateless parents who are permanently resident on Lithuanian territory acquire Lithuanian citizenship at birth. While this provision will prevent statelessness from occurring in the majority of cases, the amended law does not ensure that all children acquire a nationality at birth. In particular, the safeguards in the Law do not address the situation of children born to stateless persons who are not permanent residents in Lithuania or whose parents possess a nationality but cannot confer it on their children. To ensure that statelessness is prevented in all cases, a future amendment of the nationality law should also grant nationality to children born on territory *who would otherwise be stateless*.

On the other hand, UNHCR welcomes the fact that the amended Citizenship Law introduces new safeguards against statelessness by giving effect to the renunciation of citizenship only upon the effective acquisition of another nationality (Articles 25.3 and 26 of the 2010 Citizenship Law). The law moreover no longer provides for loss of nationality on the basis of prolonged residence abroad (Article 21 of the 1991 Citizenship Law). The amended Citizenship Law will come into force in April 2011.

II. Achievements and Best Practices

Lithuania took steps to prevent statelessness by amending the Citizenship Law in the end of 2010. The law was approved by Parliament on 2 December and comes into force on 1 April 2011 (Žin., 2210 NR. 144–7361). Important amendments are provided in Article 25 (3) of the law, which introduces the safeguard, that if renunciation would lead to statelessness, the renunciation request will not be considered by Lithuanian authorities. This provision will prevent citizens of Lithuania from losing their citizenship in the future, if they would otherwise become stateless. Moreover, the law no longer allows citizens to lose their nationality on the basis of prolonged residence abroad (Article 21 of the 1991 Citizenship Law).

III. Challenges and Constraints

Lithuania is not a party to the *1961 Convention on the Reduction of Statelessness* and regional documents on preventing and reducing statelessness. The number of stateless persons granted citizenship annually is very low; there were 106 granted citizenship in 2009 and only 78 in 2010. There is a lack of proper attention to the issue, and no actual data or studies exist to identify reasons behind statelessness in Lithuania.

IV. Recommendations

The *1961 Convention on the Reduction of Statelessness* establishes an international framework to ensure the right of every person to a nationality by establishing safeguards to prevent statelessness at birth and later in life. This treaty is therefore complementary to standards contained in human rights treaties. An increase in the number of States parties is essential to strengthening international efforts to prevent and reduce statelessness. The amendments that were introduced in the Lithuanian Citizenship Law in 2010 bring the law into closer compliance with Convention standards. **UNHCR recommends that the Government of Lithuania accedes to the 1961 Convention.**

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