

Submission by the United Nations High Commissioner for Refugees
For the Office of the High Commissioner for Human Rights' Compilation Report
Universal Periodic Review: 3rd Cycle, 40th Session

LITHUANIA

I. BACKGROUND INFORMATION

Lithuania is a party to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter referred to jointly as the *1951 Convention*) from 1997. Lithuania also became a party to the *1954 Convention relating to the Status of Stateless Persons* (hereinafter referred to as the *1954 Convention*) and the *1961 Convention on the Reduction of Statelessness* (hereinafter referred to as the *1961 Convention*) in 2000 and 2013 respectively. Lithuania is also a party to important international human rights conventions, including the European Convention on Human Rights and Fundamental Freedoms. The Law on the Legal Status of Aliens (hereinafter referred to as the Aliens Law)¹ lays down the foundations of the national asylum system. It provides for two distinct types of legal status afforded to beneficiaries of international protection – refugee status and subsidiary protection. The latter is *inter alia* granted to persons who may face indiscriminate violence in situations of armed conflict occurring in their country of origin. The Ministry of the Interior (Mol) and the Ministry of Social Security and Labour (MSSL) are responsible for developing and implementing asylum policies. The Migration Department at the Mol is the central asylum authority responsible for the determination of asylum claims. The decisions on asylum may be appealed to two judicial bodies: the Vilnius Regional Administrative Court and the Supreme Administrative Court of Lithuania. State funded lawyers and several NGOs provide legal aid to asylum-seekers.

The State Border Guard Service (SBGS) is responsible for the registration of asylum applications made at the border. The SBGS is also responsible for the administration of the Foreigners' Registration Centre (FRC) in the town of Pabradė; a facility comprised of two sections - a detention unit for irregular migrants and detained asylum-seekers and a reception unit for asylum-seekers who are not detained. The MSSL manages the second reception facility for asylum-seekers – the Refugee Reception Centre (RRC) in Rukla. This centre is also used for accommodation of recognized refugees and subsidiary protection beneficiaries during the initial post-recognition period. The MSSL is also responsible for integration of refugees and persons granted subsidiary protection. It likewise administers the Asylum, Migration and Integration Fund (AMIF); a key EU financial instrument aimed at supporting implementation of the EU asylum legislation in Member States.

As compared to other EU countries, Lithuania receives a relatively low number of asylum applicants, e.g. 423 persons applied for asylum in 2018, 646 – in 2019, and 331 – in 2020. In 2021, an increase of arrivals has been observed, as 325 asylum claims were lodged in January – May only. As of 1 January 2021, Lithuania hosted 1,909 refugees and

¹ Law on the Legal Status of Aliens, 29 April 2004, No IX-2206, official gazette "Valstybes žinios", 30 April 2004, No 73-2539, as subsequently amended, the consolidated version in Lithuanian is available at: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.232378/asr>.

beneficiaries of subsidiary protection. 2,683 documented stateless persons were registered in the country on 1 January 2021.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Linked to 2nd cycle UPR recommendation no. 100.167: “Improve reception services at foreigners’ registration centres and implement alternative registration services, particularly for asylum-seekers with special needs (Iraq)”²

In recent years, Lithuania has undertaken targeted efforts to improve reception conditions for asylum-seekers. This includes the development of the accommodation infrastructure and services at the FRC in *Pabradė*, including the construction and operation of the unit for asylum-seekers with special needs, and introducing additional options for accommodation and other reception support to asylum-seekers at the RRC in *Rukla*, as well as through an alternative scheme allowing for placing asylum-seekers in local communities.³ From the beginning of 2020, asylum-seekers are also entitled to work where a decision on the asylum application has not been taken within six months.

Linked to 2nd cycle UPR recommendation no. 100.166: “Adopt a comprehensive integration strategy for refugees, ensuring effective integration measures and increasing social support for refugees during the integration process (Egypt)”⁴

The Lithuanian authorities have undertaken systematic efforts to facilitate access to mainstream social welfare guarantees and improve the national refugee integration system. In this respect, the national legislation governing social support and social insurance has been reviewed and amended to include beneficiaries of subsidiary protection. Lithuania, therefore, effectively implemented the UNHCR recommendation to eliminate the differences in access to the mainstream social welfare system provided in UNHCR’s Submission for the Compilation of UN Information on Lithuania for the UPR 26th Session.⁵ Furthermore, *the 2018-2020 Action Plan on Integration of Foreigners into Society* (recently extended to 2021),⁶ and amendments to the *Government Integration Resolution*⁷ introduced a series of measures aimed at facilitating the refugee integration process placing an emphasis on individual needs and self-reliance. Cooperation and coordination among different integration stakeholders has also improved establishing an important platform for development of sustainable integration policy and programme, as well as inclusion of refugees and beneficiaries of subsidiary protection.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 2nd cycle UPR recommendations

² UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Lithuania*, 27 December 2016, A/HRC/34/9, para. 100.167, available at: <https://www.refworld.org/docid/58ad65864.html>.

³ Lietuvos Respublikos Vyriausybės 2017 m. kovo 8 d. nutarimas No 171 “Dėl prieglobsčio prašytojų apgyvendinimo tvarkos aprašo patvirtinimo”, as subsequently amended. The consolidated version in Lithuanian is available at: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/aaa8f6a107e311e78352864fdc41e502/asr>.

⁴ UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Lithuania*, 27 December 2016, A/HRC/34/9, para. 100.166, available at: <https://www.refworld.org/docid/58ad65864.html>.

⁵ UN High Commissioner for Refugees (UNHCR), *UNHCR Submission on Lithuania: UPR 26th Session*, March 2016, page 8, available at: <https://www.refworld.org/docid/5a12bd2a0.html>.

⁶ Lietuvos Respublikos socialinės apsaugos ir darbo ministro 2018 m. gruodžio 21d. įsakymas Nr. A1-755 “Dėl Užsieniečių integracijos į visuomenę 2018 –2021 metų veiksmų plano patvirtinimo”. The consolidated version in Lithuanian is available at: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/31d148100a1911e98a758703636ea610/asr>.

⁷ Lietuvos Respublikos Vyriausybės 2016 m. spalio 5 d. Nutarimas Nr. 998 „Dėl Valstybės paramos prieglobsčio gavėjų integracijai teikimo tvarkos aprašo patvirtinimo“, the consolidated version in Lithuanian is available at: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/34e8bf81913d11e68adcd41bb2f432d1/asr>.

Issue 1: Effective preparedness and humanitarian response in emergency situations

Linked to 2nd cycle UPR recommendation no. 100.168: “Develop actions to improve the living conditions of asylum seekers and avoid discrimination on grounds of nationality or country of origin (Chile)”⁸

UNHCR observes that despite noticeable improvements the Lithuanian asylum and reception system may need to be further enhanced to ensure an effective humanitarian response in situations of increased arrivals of asylum-seekers, including an emergency situation. As underlined in the UNHCR *Better Protecting Refugees* paper, coordinated contingency planning is essential to respond effectively to possible arrivals in significant numbers.⁹ In this regard, two increases of arrivals occurred in 2019 and 2021 put a pressure on Lithuania’s reception system resulting in the placement of asylum-seekers at border guard units without adequate conditions for a longer stay. This includes the accommodation of asylum-seekers in tents set up at the FRC in June 2021. UNHCR and its partners have observed, in particular, high accommodation density, lack of privacy, and delayed supply of sufficient and appropriate food, non-food items and services in some cases, notably as far as children and other applicants with special needs are concerned.

UNHCR considers that contingency planning, well-coordinated needs assessments and timely provision of safe and dignified accommodation, supplies and services are essential for ensuring *inter alia* an adequate standard of living, the right to private and family life and the rights of the child in situations whereby larger numbers of asylum-seekers arrive during a short period of time. For this reason, the national reception system should be further developed to include preparedness and response arrangements based on applicable humanitarian principles and international human rights standards.

Recommendations:

UNHCR recommends that the Government of Lithuania:

- a) Develop further the reception system to ensure that the accommodation capacity, support and services are sufficient and adjusted to the needs to respond effectively in situations where larger numbers of asylum-seekers arrive during a short period of time.

Issue 2: Prevention of child statelessness

Linked to 2nd cycle UPR recommendation no 100.170: “Adopt the necessary measures to reduce statelessness (Panama)”¹⁰

UNHCR observes that Lithuania has recently implemented several initiatives aimed at reducing statelessness in line with its pledges at the High-Level Segment on Statelessness (HLS).¹¹ This included the adoption of amendments to the Citizenship Law broadening automatic access to Lithuanian citizenship for children born to stateless parents who are lawful residents¹² and a campaign to analyse the situation of stateless persons in the country

⁸ UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Lithuania*, 27 December 2016, A/HRC/34/9, para. 100.168, available at: <https://www.refworld.org/docid/58ad65864.html>.

⁹ UN High Commissioner for Refugees (UNHCR), *Better Protecting Refugees in the EU and Globally: UNHCR's proposals to rebuild trust through better management, partnership and solidarity*, December 2016, page 8, available at: <https://www.refworld.org/docid/58385d4e4.html>.

¹⁰ UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Lithuania*, 27 December 2016, A/HRC/34/9, para. 100.170, available at: <https://www.refworld.org/docid/58ad65864.html>.

¹¹ UNHCR, *High-Level Segment on Statelessness: Results and Highlights*, May 2020, page 63, available at: <https://www.refworld.org/docid/5ec3e91b4.html>.

¹² Lietuvos Respublikos pilietybės įstatymo Nr. XI-1196 2, 7, 12, 15, 16, 18, 21, 23, 24, 26, 27, 33, 37, 40, 41, 41-1 ir 42 straipsnių pakeitimo ir įstatymo papildymo 21-1 straipsniu įstatymas, TAR, 2020-12-23, Nr. 28359. Available in Lithuanian at: <https://bit.ly/3wnkXbj>.

and provide an individual counselling on access to citizenship procedures.¹³

While supporting these efforts, UNHCR considers that additional guarantees may need to be introduced in the national legislation to secure access to nationality for all children born in the territory who would otherwise be stateless. This is essential for ensuring a correct and complete implementation of applicable provisions of the *1961 Convention* and the *1989 United Nations Convention on the Rights of the Child* (the CRC). In this respect, UNHCR notes that the current legislative framework on automatic access to citizenship does not encompass children who are born in Lithuania to foreign parents who cannot pass on their nationality, e.g. because of conflict of nationality laws. While such children may still apply for Lithuanian citizenship after 5 years of continuous lawful residence, this procedure is essentially of discretionary nature and the applicable preconditions for granting citizenship are broader than those permitted under Article 1 (2) of the *1961 Convention*.

Furthermore, the condition of lawful residence is not in accordance with Article 1(2)(b) of the *1961 Convention*, by which States may impose a habitual residence requirement on the child, but not a lawful residence requirement.

In light of the above, considering that the risk of leaving certain children stateless remains, UNHCR considers that additional safeguards are required to prevent children from being born into statelessness. In this regard, introducing provisions that clearly provide for automatic grant of Lithuanian citizenship at birth to children born in the territory who would otherwise be stateless would ensure a full alignment with the provisions of the *1961 Convention* and the CRC.

In accordance with the *1954 Convention* and the HLS pledges, UNHCR is ready to closely work with Lithuania to analyse the statelessness situation and support the establishment of a dedicated statelessness determination procedure. Positive determination of statelessness should lead to a legal status that permits residence, enjoyment of human rights and facilitated naturalization.

Furthermore, UNHCR notes that stateless persons are required to reside lawfully in the country for ten years to apply for Lithuanian citizenship, which is a lengthy period for stateless persons, also when comparing it to residency requirements in other EU countries. It is recommended that the Government introduced procedures for facilitated naturalization, in line with Article 32 of the *1954 Convention*. Moreover, as revealed by the *Statelessness Mapping in Lithuania*, some vulnerable stateless persons are not able to afford application fees for naturalization.¹⁴

Recommendations:

UNHCR recommends that the Government of Lithuania:

- a) Consider providing for the automatic grant of Lithuanian citizenship at birth to all children born in the territory who would otherwise be stateless;
- b) Establish a statelessness determination procedure, including the granting of a formal status for those stateless persons who are unable to return to their country of previous habitual residence; and,
- c) Facilitate naturalization of stateless persons by reducing the required number of years of residence and lowering or waiving application fees.

Additional protection challenges

Issue 3: Effective family reunification arrangements

¹³ UN High Commissioner for Refugees (UNHCR), Campaign Update, January 2021 - March 2021, 15 April 2021, page 7, available at: <https://www.refworld.org/docid/607852747.html>.

¹⁴ UNHCR, *Mapping Statelessness in Lithuania*, May 2016, page 82, available at: <https://www.refworld.org/docid/580f649c4.html>.

UNHCR strongly believes that supported and well-managed access to family reunification enables, in particular women and children, to safely access protection. Effective and prompt family reunification procedures help discourage communities from having to resort to criminal smuggling networks, remove the risk of undertaking dangerous journeys, and ensure more gender equity in terms of access to protection.

While the Aliens Law guarantees the right to family reunification for refugees and beneficiaries of subsidiary protection, and even exempt them from certain requirements applicable to foreigners in general, UNHCR has observed several legal and practical obstacles which still hamper the family reunification process. First, the definition of family, as set out in the Aliens Law, is limited to the nuclear family narrowing possibilities for other family members to reunite. In UNHCR's view, it is important that there is scope to grant family reunification to other close family members beyond the nuclear family where there is an established social, emotional or economic dependency.

Furthermore, the applicable family reunification procedures are not sufficiently flexible to consider the specific situation of refugees. Notably, beneficiaries of international protection are currently not exempted from the requirement to provide official documentary evidence of the family relationship. This may make access to family reunification excessively difficult or even impossible for refugees who may not obtain official documentation for objective reasons.

Lastly, some refugee families who seek to reunite also face practical obstacles when trying to obtain Lithuanian visas. This is because the family members may need to travel to other countries to reach Lithuanian embassies which cannot be practically possible in some cases due to exit and/or entry requirements. Moreover, the refugee's family members are expected to fulfil the visa conditions applicable to foreigners.

With a view to ensuring a full compliance with the right to respect for family life in the family reunification procedures involving refugees and beneficiaries of subsidiary protection, UNHCR recommends considering legislative and administrative measures, including, where relevant, consular cooperation with other EU States, to eliminate remaining obstacles to family reunification in Lithuania.

Recommendations:

UNHCR recommends that the Government of Lithuania:

- a) Extend the right to family reunification to encompass a broader range of family members, beyond the nuclear family, who are dependent on each other;
- b) Remove remaining legal and practical obstacles to family reunification of refugees and beneficiaries of subsidiary protection to protect especially women and children from having to undertake dangerous and risky journeys to reach their loved ones; and,
- c) Address challenges associated with limited access to embassies considering the possibility for the beneficiary of international protection in Lithuania to apply on behalf of her/his family member outside Europe and/or apply for and collect visas at the embassy of another EU State if there is no Lithuanian consular representation where the family members live.

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