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## DECLASSIFICATION

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Subject: Analysis of information on migration and asylum in Lithuania

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Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

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# RESTREINT UE



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 1 July 2002**

**10530/02**

**RESTREINT UE**

**EVAL 30  
ELARG 226**

## **NOTE**

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From : the General Secretariat  
To : the Collective Evaluation Working Party  
No. prev. doc. : 10649/1/00 EVAL 35 ELARG 103  
Subject : Analysis of information on migration and asylum in Lithuania

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## **I. Migration**

Information was gathered from the replies of the embassies to the questionnaire sent by the Presidency (2000), the negotiations documents of 2001 and 2002, the Council of Europe (CPT) report of 2000, ECRE study on the availability of free and low-cost legal assistance for asylum seekers in EU States (November 2001), Cirefi/Eurostat documents of 2001 and 2002, UNHCR papers, various websites (UNHCR, NGOs) and former documents i.a. the JHA/PHARE Follow-up mission report of March 1999, the "Gaps analysis" of the Seil Project, the Odysseus document "International and national legal measures relating to irregular migration with particular reference to the Baltic states", (February 2000, Helsinki), the outcome of the Odysseus regional training workshop on asylum (Tallin, 26-27 January 2000), the screening documents. The analysis of existing information made by one Member State and following the checklist was also helpful, as well as a letter from one Member State of 5 October 2000.

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Lithuania has 3.7 M inhabitants and is not a country of origin for illegal immigration in Europe. The Russian-speaking minority has been naturalised in a large extent (90% of 300 000 persons). However, it happens that some of them apply for asylum in Western Europe, notably in the Nordic countries. Their repatriation doesn't raise problems, generally speaking.

## A. Visas

### 1. Statistics

Lithuania issued 271,455 consular visas in 1997 and 254,685 in 1998.

11,979 visas were issued at the border in 1998, mainly to EU citizens at international checkpoints. 4.082 in 1999 (of which 306 were free of charge).

### 2. Visa policy

Lithuanian visa policy complies with EU and Schengen standards. The Visa regime is established according to EU "black lists". The following differences remain:

- Russian citizens of Kaliningrad region may come to Lithuania visa free for a period of 30 days. (Lithuanian citizens may reside without visa in Kaliningrad as well). The Russians have to detain the old internal Russian passport and a special document certifying they are residents of the Kaliningrad district.
- Citizens of Belarus, residing close the border, may come to Lithuania visa free;
- Drivers of Russian and Belarus citizenship, transporting cargo and having a license from the Ministry of Transport, may come to Lithuania visa free.

Russian authorities provided data to the EU on the number of border crossings, and of Russian persons transiting from Kaliningrad to the Russia's mainland through Lithuania (1.2 million Russian citizens entered Lithuania from Kaliningrad in 2001.<sup>1</sup>

The official website of Lithuania indicates VI. COUNTRIES WHOSE CITIZENS DO NOT REQUIRE VISAS (for stay until 90 days within 12 months) :

Republic of Belarus\* (and for citizens older than 60 years)

People's Republic of China \*\* (for stay until 30 days)

Kaliningrad District (Russian Federation) citizens (for stay until 30 days)

\* For holders of diplomatic passports only

\*\* For holders of diplomatic and official passport only

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<sup>1</sup> doc 7801/02

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In addition, some countries are still subject to visa requirement in Latvia while not in the Schengen States. Visa lifting thereof is ongoing.<sup>1</sup>

"Regarding visa transit regime applied to train passengers and lorry drivers crossing the territory of Lithuania to and from Kaliningrad, the Action Plan foresees introduction of visas for the mentioned categories of travellers as of January 1, 2003. The Action Plan also foresees introduction of visas as of July 1, 2003, for residents of Kaliningrad of the Russian Federation, ...for all nationals of Belarus, ...and for all nationals of Ukraine."<sup>2</sup>

### 3. Place of issuance.

"Visas shall be issued at diplomatic missions and consular offices, and at the Migration Department of the Ministry of the Interior." So, the Migration Department may grant visas. This is not theoretical: the Migration Department and three migration services inside the country in Vilnius, Klaipeda and Kaunas issued 4,534 visas in 1998 (including 1,477 ordinary and 3,057 "special" visas for reasons of study and temporary employment, business, etc., for a duration of stay up to 2 years.) " the Government of Lithuania is planning to strengthen consular services in Kaliningrad and Belarus."<sup>3</sup>

"Regular and transit visas may also be issued at a Border Security Post in the following cases:

- 1) to foreign persons visiting Lithuania to take part in an official meeting ...
- 2) to foreign persons requiring urgent medical aid on the condition that the Ministry of Health or its authorized office has submitted a visa application to the Border Police Department of the Ministry of the Interior;
- 3) to drivers of freight vehicles carrying cargo to Lithuania or the Kaliningrad region of the Russian Federation as well as to persons traveling by the same means of transport and indicated in the documents certifying the route of the vehicle;
- 4) to drivers of freight vehicles or other persons transporting cargo to or from the International Ferry Port in Klaipeda via Lithuania on the condition that the documents certifying the route of the vehicle are provided;
- 5) to aircrew members indicated in an aircrew members list;
- 6) to crew members of foreign vessels substituting for crew members in Klaipeda Sea Port on the condition that the Migration Department of the Ministry of the Interior has submitted a written visa cation to the Border Police Department at the Ministry of the Interior.

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<sup>1</sup> CONF-LT 6/02

<sup>2</sup> CONF-LT 60/01

<sup>3</sup> CONF-LT 60/01



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Visas may be issued at Border Security Posts in other cases on the condition that the Migration Department of the Ministry of the Interior has submitted to the Border Police Department of the Ministry of the Interior a written visa application.

A regular visa issued at a Border Security Post allows its holder to remain in Lithuania no longer than 10 days. "<sup>1</sup>

"A new regulation aligning the above mentioned elements fully with the Common Consular Instructions will be prepared and submitted by 1 June 2003 for the Government adoption as foreseen in the Schengen Action Plan, with the exception of those provisions which will enter into force only upon the lifting of internal borders. It will also establish a visa issuing procedure at border control posts in line with the acquis."<sup>2</sup>

#### 4. Issuance conditions.

The types of visa in Lithuania are: diplomatic, official, regular, special and transit visas.

A regular visa is meant for personal, business, tourism, medical treatment or other sort of visits. The duration of stay shall not exceed 90 days. For regular visas, an invitation from a Lithuanian natural or legal person is required. This invitation has to be approved by the Migration Service. But for 22 countries including Belarus, Russia and Ukraine, there is no need of an invitation. However, for these countries the visa, for a period of max.10 days, is "issued upon presentation of application in person, travel checks (USD 60 per day) and health insurance certificate."<sup>3</sup> (Money in cash or in travellers cheques is of course mentioned in the acquis, but as one piece of the combination/range of "supporting documents", and not as a single element.) 8 of these 22 countries are on the Schengen "white list".

There are transit visas (for travelling through Lithuania to another destination and the duration of stay shall not exceed 48 hours) but no airport transit visas. " The National Schengen Plan foresees that airport transit visas will be introduced from 1 April 2002. This was adopted by a Resolution of the Government on the Amendment of the Regulations for the Issuance of Visas of the Republic of Lithuania of 23 January 2002.

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<sup>1</sup> Lithuania's website

<sup>2</sup> CONF-LT 6/02

<sup>3</sup> Lithuanian official website, consular issues.

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The Amendment establishes the airport transit visa and foresees the preparation of the list of foreign countries whose citizens will be subject to airport transit visa requirements, in line with the EU requirements."<sup>1</sup>

Special visas are issued for reasons of study and temporary employment, business, etc. The duration of stay shall not exceed 2 years. If the duration of work or studies is longer than two years, a new special visa will be issued. These "special" visas are issued to the alien who has the right to receive the permit for temporary residence or permanent residence. The special visa is a single entry visa and is valid for six months or one year. According to the Law on the Legal Status of Aliens an alien who intends to stay in the Republic of Lithuania for more than 90 days must receive a permit for temporary residence.<sup>2</sup>

In general visa applications are processed within 7 working days, and in urgent cases within 24 – 72 hours. (EVAL 44)

All the diplomatic and consular missions have access to the database of undesirable persons, for whom visa can not be issued, and this register has direct links to the central visa register maintained by the Migration Department at the Ministry of Interior. (SEIL Project 1999, screening) It is not an on-line system yet (updating every two weeks.)

"Visa Register will be established as a constituent part of Foreigners' Register that will be launched on 1 July 2003. For the year 2003, it is planned to supply diplomatic and consular posts with additional technical equipment for checking of travel documents, as foreseen in the National Schengen Action Plan."<sup>3</sup>

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<sup>1</sup> CONF-LT 6/02

<sup>2</sup> Letter from one Member State, 5 October 2000

<sup>3</sup> CONF-LT 6/02

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## Fees:

Regular visa 15 USD

Special visa 50 USD

Transit visa 8 USD

Airport transit visa 8 USD

Double entry transit visa 18 USD

Group visa 10 USD per person

Group transit visa 8 USD per person

Group double entry transit visa 18 USD per person<sup>1</sup>

" On 22 November 2001 Lithuania presented the Note concerning the permission to open a Consulate General in Grodno. On 6 November 2001 Lithuania presented the Note concerning the permission to open a Consulate in Sovetsk. So far no reaction from the side of Russia Federation neither Belarus was received."<sup>2</sup>

## B. Document security

Lithuanian visa insets are properly protected and meet EU Standards on visa protection. Issuance is computerised.

Lithuanian national passports, issued since 1991, have not met EU security requirements. This is evidenced by the statistical data on forgeries. During 1997, 262 forged passports were discovered (24 of those were foreign) and in 1998, 80 out of 100 passports examined were forged (14 of those were foreign). (SEIL Project 1999)

" Seimas passed the new Law on Passports on 8 November 2001. The new passports will be in conformity with the security features of the *acquis* as well as the requirements by the ICAO for machine readable travel documents.

The old passports of the Republic of Lithuania shall be withdrawn from circulation by 31 December 2007. Issue of new passports of the Republic of Lithuania will start at the end of 2002. Up to 800 new passports per shift will be issued starting from October 2002. In 2003 the number of shifts will be doubled enabling to issue 400 000 new passports per year. The aforementioned dates could be pushed closer, if personal identity cards, the issue of which to the citizens of the Republic of Lithuania will start at the end of 2002, are acknowledged by the Member States of the European Union as sufficient documents for entering those countries."<sup>3</sup>

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<sup>1</sup> Lithuania's website

<sup>2</sup> CONF-LT 6/02

<sup>3</sup> CONF-LT 6/02

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## C. Admission of foreigners

Several Laws, regulating the migration issues, were adopted since 1991: the Law on Immigration of 1991, the Law on the Legal Status of Foreigners of 1991 amended in 1996, and lately the Law on the Legal Status of Foreigners of 1998 which entered into force on 1 July 1999. In parallel to this last Law, the "Law on the implementation of the Law on the Legal Status of Foreigners" adopted in 1998 included a possibility of "regularisation" of illegals. About 150 illegals were "regularised" in 1999 pursuant to this Law. (A former "regularisation" was conducted in 1996 and concerned 54 persons.)

In 1997, there were 27157 foreign citizens and stateless persons holding a permanent residence permit.

As far as influxes are concerned the available figures are confusing because they do not separate the permits granted for the first time, and those renewed or modified... About 5000 permits are probably issued each year, of which 1000 to 1500 concern new arrivals. About 600 russians, 200 Belarussians and 200 Ukrainians each year are granted a first residence permit.<sup>1</sup>

"In order to achieve full alignment with the EU acquis the procedure for the issuance of residence permits, Lithuania will adopt a new version of the Law on the Legal Status of Foreigners in 2003. The new law will further specify the legal grounds for the issue of residence permits to foreigners, particularly to those arriving to work."<sup>2</sup>

## D. Family reunion

Under the Law on Immigration of 1991, and the Law on the Legal Status of Foreigners of 1991, there were provisions for family reunification only for persons related to, dependent or married to Lithuanian citizens. Furthermore, foreigners could only apply for the residence permit in Lithuania provided they had an invitation (valid for 6 months) from a citizen of Lithuania, approved by the Migration Service. Finally, annual quotas were applied (although never totally fulfilled).

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<sup>1</sup> Odysseus document "International and national legal measures relating to irregular migration with particular reference to the Baltic states", (February 2000, Helsinki).

<sup>2</sup> CONF-LT 6/02

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The new law includes provisions for family reunification, without quotas. Family reunification (involving "family members", children under 18 and persons incapacitated because of age or disability) is provided for permanent residents. Where temporary residents are concerned, this possibility is offered to specific categories only, namely those who

- "have sufficient means of subsistence from lawful activity in the Republic of Lithuania or abroad",

- "come to Lithuanian scientific or educational institutions to undertake scientific research or to teach".

The other cases of temporary permits (notably the students in one hand, the aliens who have been issued a work permit in the other hand), cannot benefit from these provisions. As a result, workers cannot enter with their family, nor apply for family reunification before having been granted a permanent residence permit, i.e. after five years (at least) under the temporary stay regime.

## E. Employment

Entry quotas for employment are established by the Government.

A special visa for employment is issued on the basis of a work permit. Workers need work confirmation documents from the host company and permission to work from the Lithuanian Labour Bureau. Work permits are valid for one year and specify the job and the employer.

However, the Law doesn't state clearly that, with regard to admission for employment, foreigners will not be admitted unless prior authorization has been given for them to take up employment, as required in the *acquis*.<sup>1</sup>

"The Order on Foreigners' Employment under a Work Contract was approved on 1 June 2000.

Work permits under a work contract are issued to foreigners by the Lithuanian Labour Exchange Office under the Ministry of Social Affairs and Labour. A work permit is granted to a foreigner if the quota of foreigners' employment established by the Government has not been exceeded and the foreigner's profession (qualification) meets the needs of the state labour market as decided by the Lithuanian Labour exchange office." <sup>2</sup>"The quota for the year 2002 is 1300 foreign workers".

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<sup>1</sup> Art 11 2. "An alien may submit an application for a residence permit in the Republic of Lithuania to a diplomatic mission or a consular office of the Republic of Lithuania." Art 11 3. "An alien lawfully staying in the Republic of Lithuania shall submit an application for the issue or renewal of a residence permit to the Ministry of the Interior or a body authorised by it."

<sup>2</sup> CONF-LT 60/01

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Foreign investors must submit official documents from a company or institution, confirming the necessity of a special visa without permission to work. (Phare report 1998).

There is poor information on self-employed workers, and on the students (for a student visa, enrolment confirmation from a Lithuanian educational institution is required). The types of visas and the division of responsibility in respect of different categories of visas among the bodies that are entitled to issue them should be regulated by law.

## F. Permanent residence

A permit for permanent residence (5 years) shall be issued if a foreigner is the spouse, an immediate relative or dependant of a citizen of Lithuania, or has legal source of support in Lithuania (this basis is not actually used), or in addition in some other cases established by laws (e.g. Court decisions concerning people who arrived in the country between 1.1.92 and 1.7.93, "regularisation" of 1998).

("Permanent residence permits are granted to foreigners who have been in possession of a temporary residence permit for the last five years, have a place of residence and a legal source of subsistence. These conditions are not applied to foreigners who have retained the right to the Lithuanian citizenship and to foreigners who are family members of a Lithuanian citizen and who arrive to live together. In cases of family reunification permanent residence permit is granted when a foreigner has been living in Lithuania the last two years, has a place of residence and the legal source of subsistence in Lithuania.)<sup>1</sup>

## G. Refusal of residence permits

An immigrant may appeal against a decision on revocation of a permit for residence within a period of seven days after the decision. Appeals are presented before a court of 1<sup>st</sup> instance. Administrative Courts may be created in the future, and then the appeals will be presented there. The suspensive effect of the appeal is unclear.

## H. Combating illegal migration

### 1. Statistics.

The number of illegal immigrants intercepted at the borders or readmitted into Lithuania increased between 1993 and 1997: from about 300 in 1993, up to 1520 in 1996 and 2012 in 1997. Since 1992 the number of arrested illegal immigrants increased by 36% every year. This evolution may also be related to improvements in border control activities rather than to the natural influx of illegal immigrants.

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<sup>1</sup> CONF-LT 60/01



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In 1998 this continuous increase has been stopped with only 495 arrested illegal immigrants (screening answers). The Odysseus document presents different numbers, but showing the same trends (a decrease of illegal border crossing since 1998.)

Illegal migrants detained: from 1993 to 2000 : 119, 620, 1354, 1551, 1382, 495, 261, 100.<sup>1</sup>

As there is no evidence suggesting any reduction in the detection rate, it can be concluded from the statistics that the flow of illegal migration was substantially reduced. It can be related to the efforts of Lithuanian authorities.

first quarter of 2002: refused aliens 653, apprehended illegally present 25 (lowest number in applicant countries), apprehended facilitators 2, removed aliens 80, (501 in 2001).<sup>2</sup>

The largest number of illegal immigrants comes from Sri Lanka, China, Pakistan, India, Afghanistan and Bangladesh.

Lithuania is regarded as a transit country. The majority of illegal immigrants, who are coming from Russia via Belarus, try to cross the border to Poland and continue toward the EU from there. They have generally lived several months in Russia and Belarus before entry. The use of counterfeit documents is widespread.<sup>3</sup> The various methods for illegal entry are known and dealt with.

According to estimates of the migration services of the police commissariats, about 450 foreigners reside in the country illegally.

## 2. Legal sanctions

*Illegal entry and stay* is an administrative offence (fine). If committed repeatedly during the course of one year it may lead to imprisonment. Deliberate illegal crossing of the border is a crime.

*Trafficking of human beings* is a criminal offence. The State Security Department has legal authority to undertake activities to counter organised people smuggling, by arresting illegal migrants, defining the organisers, and by ascertaining the means of transportation. Penalties for trafficking in human beings have been made heavier in 1996-1997, and have increased to 5-15 years imprisonment. The confiscation of property is an additional sanction. New separate offences have been created in 1999 (for instance "concealing foreigners who illegally crossed the border.")

*Sanctions against carriers.* According to the new Law of 1998, carriers are liable in respect of foreigners who arrive illegally in the country. The carriers must return to their cost such foreigners.

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<sup>1</sup> Cirefi, June 2001

<sup>2</sup> Eurostat/Cirefi

<sup>3</sup> Cirefi, June 2001

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## 3. implementation

According to the Lithuanian authorities, "100 persons were detained and charged with offences (of smuggling) in the middle of 1997.<sup>1</sup> In 1998, 50 smugglers were "detained". Some of the smugglers have already been sentenced to 10-12 years of prison. This could be one of the reasons of the reported decrease of illegal entries in Lithuania since 1997.

## 4. trafficking in women.

The country primarily is a country of origin, and to a lesser extent a transit country, and destination for trafficking in women and girls. Germany, France, Israel, the Netherlands, Denmark, and Austria were major destinations, based on the statistics of women subsequently deported from these countries to Lithuania. Women from Lithuania are trafficked mostly to Western Europe and the Middle East. Women and girls from Belarus, Russia (Kalingrad District), Latvia, and the Lithuanian countryside are trafficked to the major cities in Lithuania. From 1997 to 2000, approximately 80 percent of the 110 young females returned to Lithuania (who passed through the NGO Missing Persons Families' Support Center) were victims of trafficking, and approximately one-quarter of them were under 18. A limited number of police agents are involved in investigating trafficking cases. An interministerial commission is scheduled to coordinate the implementation of the antitrafficking program for 2002-04, and a higher level committee will deal with a broader range of trafficking-related issues. Five officers from the Office of Criminal Business Investigation at the Organized Crime Investigation Service of the Police Department and the Ministry of Interior are directly involved in antitrafficking activity. In July 2000, the border police were instructed to pay more attention to young persons, particularly females, traveling abroad. The customs and border guards are believed to be very corrupt, and human right groups blame them for neglecting the fight against trafficking. The police offer protection for witnesses. In October the IOM launched an information campaign. According to the IOM, approximately 9 percent of Lithuanian youth have directly or indirectly been exposed to the trade in women and trafficking of persons abroad to work as prostitutes.<sup>2</sup>

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<sup>1</sup> Odysseus, "International and national legal measures relating to irregular migration with particular reference to the Baltic states", Final report, February 2000, Helsinki.

<sup>2</sup> <http://www.state.gov/g/drl/rls/hrrpt/2001/eur/8287.htm>



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## 5. Illegal employment

Illegal employment of foreigners is banned by the Code of Administrative Offences, which provides sanctions. The employer will also lose his licence for employing foreign workers. Courts may decide on the confiscation of the proceeds. Lithuanian legal rules on illegal employment are considered as in compliance with the Acquis.

(50 offences per year, related to lodging or employ of illegals)

"On 26 November 2001, the Government adopted the Resolution On Co-ordination of the Control of Illegal Employment. The Resolution determines the institutions responsible for the prevention and control of illegal employment. The State Labour Inspectorate of the Republic of Lithuania is authorised to co-ordinate actions aimed to control of illegal employment.

Following Article 2063 of the Administrative Code, setting up the liability for employing or providing other source of living in the Republic of Lithuania for a foreign citizen or stateless person who does not possess visa or residence permit in the Republic of Lithuania, migration offices have worked out 3 protocols in 2001.

"Only half of the quota of foreign workers for the year 2002 (1300) is filled therefore problem of illegal employment is not so pressing at the moment."<sup>1</sup>

## 6. Responsible authorities for combat illegal immigration

There does not seem to be no entity clearly responsible for dealing with illegal immigration nor does there seem to be a structured, uniform approach in this area, although the authorities involved (migration department, Border Police Department) do work together well.

### I. Expulsion

#### 1. Legal procedure.

Police require the illegal to depart voluntarily within 10 days. Then, the deportation decision is taken by the Ministry of Interior (Migration Office), / by the court on proposition of the Minister of Interior if the foreigner has a permanent residence permit.

An appeal can be lodged to the court within 7 days of the reception of the ministerial order, and the court decides within 10 days.

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<sup>1</sup> CONF-LT 6/02

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Protection against "refoulement" is provided for. The new Law also covers provisions of article 3 of the ECHR. Finally, deportation is not possible in case of a need of first aid, and deportation orders have to take into account the time of lawful presence in the country, the social relations in the country, the consequences on the other members of the family etc. It is not clear what status a person will hold in case of such suspension of deportation.

Police can detain an illegal during 48 hours. It is not clear whether the provisions of the Law of 29 June 2000 on Refugees, regulating detention before expulsion, apply to non-asylum seekers. (See below, asylum.) It is the court who decides that the foreigner should be kept in detention while waiting for deportation. Detention itself is based on ministerial instructions, and there is no time limit for this loss of liberty. Justice no longer intervenes after its initial decision (Detention of illegals in some cases lasted for up to 1,5 years: Phare report, 4-8 May 1998). The Aliens Law merely states that "...they may be temporarily accommodated...".

## 2. Practical implementation

The Pabrade "Foreigners' Registration Centre" was created in 1997 and its "prison-like" life conditions have much improved since its creation. The amount of detainees (simultaneously) was up to 900 in 1997, and has decreased now.

A joint network of interpreters is drafted with the Baltic neighbours.

200 to 300 Russians return to their country, more or less forcibly, and the same for Belarussians and to a lesser extent for Ukrainians.

But where remote countries of origin are concerned, due to financial constraints, funding has not been allocated to organise the forcible return of illegal migrants. Deportation is not carried out and the foreigners stay in the Foreigners' Registration Centre. Some of them escape (381 absconding during 1997, 1998 and 1999.<sup>1</sup>)

" The average length of stay at the Centre was two and a half months; however, certain residents had been held for up to fourteen months. Conditions of detention at Pabradė in general met the (life conditions) requirements. "<sup>2</sup>

Voluntary return of illegal immigrants: on the basis of a specific IOM programme, about 900 foreigners staying in the Pabrada Registration Centre were returned to their countries in 1998 and 1999.

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<sup>1</sup> Source: Lithuanian authorities. Odysseus doc.

<sup>2</sup> Council of Europe, CPT report, 2000

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## J. Readmission

Readmission agreements exist with a number of States (24), including 13 Member States, the Baltic States, Poland and Ukraine.

No problems have occurred in terms of implementation of the agreements. The Readmission Agreements cover readmission of third country nationals. Negotiations on re-admission agreements have often been linked to agreements on visa-free travel.

Re-admission agreements are lacking with Russia and Belarus. " Neither Belarus nor Russia has given their consent to conclude agreements of the type with the Republic of Lithuania."<sup>1</sup> A re-admission agreement has been concluded with Ukraine.

Information from the authorities indicates that it is possible to repatriate people who have crossed the border illegally from Russia or Belarus if there is enough evidence that these people have come to Latvia from these countries. The repatriation procedure is possible without an official re-admission agreement, due to practical relations between the border authorities on both sides.

## K. Institutional

The Migration Department within the Ministry of Interior deals with most of the issues concerning foreigners, but the operational functions fall under the competence of the police and border guards. There are local migration services established within the district police commissariats. The authorities co-operate with each other, but there is a need for a computerised linkage between them.

### 1. Database for aliens

The Migration department, Border Guards and Consular missions have a common database on undesirables. Lithuania is setting up a central visa database.

The Migration Department keeps data on illegal entrants, and fingerprints are accumulated in the Criminal Expertise service. There is no information on the computerisation of these data.

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<sup>1</sup> CONF-LT 6/02

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"Currently, the following registers are being used by the Police Department and include information necessary for the NSIS: Register of Residents, Register of Transport Vehicles, Register of Firearms, Register of Stolen vehicles, Registers of Numbered items, Register of Wanted/Unrecognised Persons (contains description of appearance (about 30 indications, including picture of a body), Database of Criminal Statistics. From the technical point of view, computer network for data transmission of the Ministry of the Interior is generally up to date; however, all mentioned registers are not integrated into a single system. The tender for the Lithuanian National Register of Wanted Items was launched on 19 June 2001. Currently the project is under implementation. The National Register of Wanted Items (vehicles, persons, identity cards and other) will be the base for the single information system. This register will provide continuous (24x7), on-line, web-based operation and secure access to data for authorised personnel. <sup>1</sup>"

The **Register of Foreigners** will be established by 1 July 2003. In December 2001 the Feasibility Study was prepared." <sup>2</sup>

Several questions remain:

- Are all lost documents immediately entered in national and, if applicable, international tracing systems?
- What technical equipment is used at diplomatic representations abroad to detect false documents?
- Are there facilities for rapid exchange of information on forged documents among various authorities?

## L. Data Protection

"On 25 September 2001 the State Data Protection Inspectorate was restructured into an independent governmental institution, authorised to supervise and control implementation of the Law on Legal Protection of Personal Data and designated as authority responsible for the implementation of regulations of the Strasbourg Convention. Amendments of the Law on Legal Protection of Personal Data were passed by the Seimas in January 2002. The amendments have extended the scope of application the Law in order to meet the requirements of the (Strasbourg) Convention.

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<sup>1</sup> CONF-LT 6/02

<sup>2</sup> CONF-LT 6/02

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Draft Amendments, strengthening the independence of the State Data Protection Inspectorate will be submitted to the Seimas in the 2<sup>nd</sup> quarter of year 2002.

As regards administrative capacities of the State Data Protection Inspectorate, the number of staff will be increased up to 18-19 persons, and in 2003, up to - 22 persons. On 27 November 2001, the computerised information system of Register of Personal Data Controllers was established and became operational. In 2001, the State Data Protection Inspectorate registered 574 data controllers. The total number of the data controllers registered at the end of 2001 was 1269. In year 2001, 17 direct inspections and 46 inspections in the way of questioning were carried out. The Inspectorate investigated 9 complaints and requests lodged by the data subjects for checks on the lawfulness of their personal data processing."<sup>1</sup>

## II. Asylum

Before 1995, the Lithuanian asylum policy was to return asylum seekers to their country of origin, and if the return failed, the asylum seekers were detained indefinitely.<sup>2</sup>

The Law on Status of Refugees was adopted in 1995 and entered into force after ratification of the Geneva Convention in January 1997. A new Refugee Law was adopted by Parliament which entered into force 1 September 2000, introducing the concepts of manifestly unfounded applications, safe country of origin, safe third country etc...

### A. Statistics

Number of applications:

- 1997 - 180 (242 including family members);
- 1998 - 119 (159 including family members);
- 1999 - 133
- 2000 199 (3 recognitions)
- 2001 256 according to UNHCR, 425 according to local authorities which include applications for humanitarian status, 53% of these being made by Russians)

11% of the applications were made at police stations inland in 2001, 36% at the FRC, 53% at the border crossing points.

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<sup>1</sup> CONF-LT 6/02

<sup>2</sup> UNHCR

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On 1 January 2002 there were 84 procedures pending. "In 2001, the Migration Department was represented in 32 sessions of the Administrative Court of Vilnius District. During these sessions the Court has adopted 31 decision to leave the decisions for not granting the status of a refugee in power."<sup>1</sup>

26 cases have been accepted (44 persons have been granted the refugee status) in 1999.

0 cases were recognised in 2001 under the Geneva convention according to UNHCR, whereas according to the negotiation doc CONF-LT 6/02, 3 afghans were recognised, maybe thanks to the judicial appeal (? "3 applications were returned from Vilnius district Administrative Court;")

Lithuanian documents mention in 2001 not only 256 applications for asylum but also 169 "Applications for residence permits on humanitarian grounds", leading to 425 cases in total, out of which 192 decisions were made "with status-principle of non-refoulement", 74 "residence permit on other humanitarian grounds", 58 "rejected" and 97 "terminated cases."

"There is no special procedure for asylum seekers arriving at Vilnius airport. Since the new Refugee Act came into force in September 2000, only one Russian and two Belorussians have so far been refused entry and no asylum applications were made at Vilnius airport."<sup>2</sup>

In 1997, the main countries of origin (in decreasing importance) were Afghanistan, Somalia, Iraq, India, Pakistan, Sri Lanka, Russia, Nepal, Iran and Georgia. Most apply once caught by police. There has recently been an increase in the number of "Chechens getting off Moscow-Kaliningrad, Kharkiv-Kaliningrad, and Homel-Kaliningrad transit trains and requesting political asylum. While 94 people applied in 2001, 140 have already done so in less than six months of 2002." According to Parliamentary debates, some of them "clearly hold radical, Wahhabite views and terrorize refugees from Asian and African countries".<sup>3</sup>

## B. Asylum procedure

### 1. Access to the procedure

Foreigners can submit asylum applications either at a Border control post or at a police station.

An asylum-seeker will not be held liable for illegal entrance and stay, if he introduces himself/herself to police officers within 24 hours.

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<sup>1</sup> CONF-LT 6/02

<sup>2</sup> ECRE

<sup>3</sup> UNHCR website quoting local press



# RESTREINT UE

Border control posts and police have to collect the documents and provide the information concerning the cases to the Migration Department. As most applicants are illegals, they are sent to the Foreigners registration Centre. "Officers receive regular training with regard to carrying out primary examinations. Competent officials of the Migration Department under the Ministry of the Interior are on duty 24 hours ready to provide advise and information to officers, who have taken in an asylum request."<sup>1</sup>

The Migration Department has 48 hours to decide whether or not there are grounds for non-admission (i.e. coming from a safe third country, or manifestly unfounded application). An appeal against a subsequent negative decision has no suspensive effect if the application was made at the border. UNHCR stresses the need of revising "the Order on Determination of Safe Third Country and Safe Country of Origin of 27 October 2000 : the lack of additional safeguards relating to the admissibility procedure (i.e. adequate time to contact a legal representative and to file an appeal, suspensive effect of appeal against a negative decision taken during the admissibility procedure at the border (but the acquis permits the contrary)) ; the need for a revised definition of a safe third country notion (i.e. include the additional criterion that the asylum-seeker must be guaranteed access to the territory and to a fair and efficient asylum procedure in the third country) and a revised definition of safe country of origin notion (i.e. abolish criteria according to which a country of origin can be considered as safe if the total number of that country's nationals seeking asylum in EU countries constitutes more than 5% of the total number of asylum-seekers in Europe and the refugee recognition rate of nationals from this country is less than 5%)."

If admitted, the applicant is transferred to the Refugee Registration Centre in Rukla. If not, he stays in the Aliens Registration Centre, and his case is dealt with according to the Aliens Law.

## 2. Procedure

A request for refugee status shall be examined within 6 months. (One month in case of an "emergency procedure": safe third country, manifestly unfounded application...)

The application is investigated by the Migration Department (Division for Asylum Affairs) and the decision on granting refugee status signed by the Minister of Interior.

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<sup>1</sup> CONF-LT 6/02

# RESTREINT UE

The new law establishes a single appeal instance, the Vilnius Administrative Court, replacing the old model involving two steps. Within 14 calendar days of receiving the decision, the applicant has the right to appeal to the Court, which deals with the substance of the case, and not only its formal lawfulness. This appeal has suspensive effect. (Judges participate actively in various training sessions, organised by the United Nations High Commissioner for Refugees and authorities of foreign countries, where they improve their qualification in the sphere of asylum. The Court employs one person who is responsible for providing the judges with information on the countries of origin and third countries of asylum seekers.)<sup>1</sup>

The Law defines a refugee in the same terms as the Geneva Convention. Accordingly, civil war situations, persecutions by non-state agents and discrimination are not considered as persecutions. A temporary residence permit on humanitarian grounds has been introduced (Law on Aliens). 19 permits have been issued on this base in 2000.

A "proper procedure for family reunification of recognised refugees" is required, according to UNHCR. However, the right itself seems properly provided for. ("Refugees shall have the right in conformity with the procedures prescribed by law to invite their spouses, children..., if they lived in the same household, to come and live in the Republic of Lithuania.")

### 3. Accommodation

Illegals applying for asylum are first accommodated in the Foreigner Registration Center (FRC). (According to the local authorities they can obtain permission for leaving the centre for no longer than 72 hours.) Only in the case they legally entered Lithuania they can reside in another place, if they have their own means. The asylum seekers were separated from the irregular migrants in June 1998. There are no special regulations for women or vulnerable individuals when living in the FRC. For children, special provisions (on detention, and on accommodation) have now been provided for by the Law of June 2000. The FRC can host 200 asylum seekers and 300 illegal migrants.

"Asylum seekers who have entered Lithuanian territory illegally are held at the Foreigners' Registration Centre in the town of Pabrade, about 40 km from Vilnius. Asylum seekers whose claims are examined under the accelerated procedure remain at the Registration Centre pending a decision on their application. If the authorities decide to consider an application under the normal procedure, the applicant is then transferred to the Refugee Reception Centre in Rukla."<sup>2</sup>

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<sup>1</sup> CONF-LT 6/02

<sup>2</sup> ECRE



# RESTREINT UE

In practice, only few asylum seekers were detained – only five have been detained since 1 September 2000.<sup>1</sup> Medical services are provided free of charge, and there is also a monthly allowance for minor expenses. Access to education in the RRC is available.

Asylum-seekers are not allowed to work.

Minors are accommodated in the FRC or RRC. (The new Law provides for exemption from detention for unaccompanied minors, unless there are exceptional circumstances). There are cases where unaccompanied minors were kept in detention with other adult asylum seekers. The Law on Refugee Status provides for representation of minors (Children's Care Institution) but no practice of this has been observed. Representatives from child-care institutions require more training.

The Refugee Registration Centre (RRC) has better living conditions now.

As regards the Foreign Registration Centre where applicants wait before being granted the "temporary territorial asylum" status, improvements are still necessary (protection of vulnerable persons) although significant measures have been taken in 1998 and 1999.

" Asylum seekers who apply at the border are temporarily accommodated at the border check points until the Migration Department decides, within 48 hours, on whether to admit the applicant into Lithuania or not. Reception conditions at border check-points are barely suitable to accommodate asylum seekers. They are not given any food during this time making it particularly harsh for children and unaccompanied minors."<sup>2</sup>

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#### 4. Judicial control of detention

Although the new Refugee law regulates the detention of asylum seekers, it remains of concern that the safeguards applicable to detained persons are not mentioned in the law, including the right to be informed of the reasons for detention, the right to challenge the decision on detention and the right of review of the detention order. Furthermore the applicants who are not detained are kept in detention-like conditions in Prabade. However it is important to note that "vulnerable persons can be detained only after a court decision, and this decision is based on the provisions of the Refugee Law. Minors are detained in extreme cases only and are kept separated from adults."<sup>3</sup>

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<sup>1</sup> Ecre

<sup>2</sup> ECRE study

<sup>3</sup> letter from one Member State, 5 October 2000

# RESTREINT UE

According to the provisions of the Law on Refugee Status, Police or State Border guard officers have a right to detain a foreigner for the period not longer than 48 hours. Minors are detained only as exception. For the period longer than 48 hours, a foreigner may be detained by court's decision on the grounds to prevent the foreigner from unauthorised entry, when actions are being taken with regard to expulsion of foreigner, to establish the reasons, why a foreigner used forged identity documents or destroyed them, for purpose of bringing the applicant before the competent legal authority...

There is an alternative to detention: duty to present himself/herself regularly to the territorial police authority at certain time; duty to inform the territorial police authority about his location place at certain time via communication means; minor, unaccompanied by parents or legal representative may be trusted to social authority to be taken care of; foreigner may be trusted to a non-governmental organisation...

The decision to detain the foreigner or assign alternative measure to detention shall be immediately notified to the foreigner in the language he/she understands, specifying the grounds of decision;

- the foreigner has a right to appeal against this decision;
- total duration of detention or assigning of alternative measure to detention can not exceed 12 months;
- the foreigners are detained in the Foreigners Registration Centre;

While preparing an appeal and defending in the court, detained asylum seeker has a right to legal aid guaranteed by the State and to services of an interpreter free of charge."<sup>1</sup>

It is not clear whether these provisions apply to all foreigners or to asylum -seekers only : Refugee Law Article 2. Basic Definitions of this Law 4. Detention of Alien is the restriction of movement of an alien under this Law.")

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<sup>1</sup> CONF-LT 6/02

# RESTREINT UE

## 5. Practical implementation

Staff and equipment. One of the main problems was the lack of qualified, experienced staff because of a high turnover. (It can be a reason why throughout 1999, not a single positive decision on refugee status was adopted by the first instance). The 4 persons, which was the staff working with asylum cases within the Refugee Division inside the Migration Department, had all changed (after training) during the time between the two PHARE missions. The staff was paid extra salary to stay in the Refugee Division.<sup>1</sup> Recent reports do not stress this issue.

The new appeal procedure is an essential improvement. There is however substantial need for education of judges (of the Vilnius Administrative Court) in their new legal field. "The establishment of a comprehensive case registration system for the judiciary would be an important step in improving the processing of appeal cases."<sup>2</sup>

There is also a lack of inter-institutional (computerised) co-operation. Almost every body involved (The FRC, the RRC, the Migration section...) has its own local database. A computer network connecting all the units and instances working in the asylum sector is needed in order to share information and to follow up the cases. Training of Border Guards is still necessary.

## 6. "Training of officials

Under implementation of the PHARE Horizontal Programme Project on Asylum Issues, the National Action Plan in the Field of Asylum aims at training of officials in all relevant fields (asylum seekers' detention issues, processing manifestly unfounded asylum cases, information search and processing, family reunification issues, the application of the Dublin Convention, and the issues of social integration."<sup>3</sup>

" The Subdivision of Information of the Migration Department under the Ministry of the Interior will be strengthened and the Information Centre of the refugee countries of origin will be established."

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<sup>1</sup> Follow-up PHARE Mission Report

<sup>2</sup> UNHCR

<sup>3</sup> CONF-LT 6/02

# RESTREINT UE

Theoretically interpreters are provided free of charge. In fact, due to lack of funds, interpreters are used from the group of asylum-seekers themselves. On 17 March 2000, the "trilateral Agreement on Joint Use of Translation Services for Asylum Institutions" purposes was signed between the Migration Departments of Lithuania, Latvia and Estonia. " The Migration Department has created a net of interpreters providing the services. Training of interpreters with regard to the procedure of granting asylum, terminology, methodology and other issues is organised together with the UNHCR"<sup>1</sup>

" State-funded interpreting services provided before the Court are very limited. The state currently only funds costs incurred for interpreting from Russian into Lithuanian and from Lithuanian into Russian. Other interpreting costs are covered by the Migration Department at the Ministry of Interior mainly from UNHCR funding. The Lithuanian Red Cross has previously paid for interpreting services on a number of occasions but is currently unable to do so."<sup>2</sup>

## 7. legal assistance

" An estimated 95% of asylum seekers in Lithuania have the opportunity to receive legal assistance by the Project lawyers... The Ministry of Interior together with the RRC, the FRC and the Lithuanian Red Cross have set up mutual agreements to enable asylum seekers access to free legal assistance. Currently, four lawyers who work as part of the Lithuanian Red Cross Legal Assistance to Asylum Seekers and Refugees Project provide free legal help during the first determination process and during appeals. The UNHCR and the European Commission have provided the majority of funding for the four lawyers. Asylum seekers normally receive information on free legal assistance at the centres. Border police give out information material to asylum seekers about the procedure. However, existing legislation does not require the authorities to provide such information to asylum seekers. It often depends on the goodwill of the official concerned. Under the Co-operation Agreement of 26 March 2001 with the Lithuanian Red Cross, the Ministry of Interior is obliged to immediately inform their lawyers about the asylum seekers who have lodged a claim for refugee status.

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<sup>1</sup> CONF-LT 6/02

<sup>2</sup> Ecre

# RESTREINT UE

Under the Co-operation Agreement, the Lithuanian Red Cross lawyers are required to be present at asylum interviews for unaccompanied asylum-seeking minors, but adult asylum seekers are very rarely represented during their first substantial asylum interview. Provision of legal assistance to asylum seekers and refugees is currently not incorporated into the existing public legal aid system and therefore not funded by the state. From 1997 to September 2000, UNHCR and the International Federation of Red Cross and Red Crescent Societies provided the funds for the provision of legal assistance. Since September 2000, funds have been provided by the European Commission. In 2000, the Refugees Reception Centre for the first time contributed about 2000 Euro towards the cost of legal assistance to asylum seekers. The amount only partially covered the costs for work of the Legal Assistance Project on judicial appeals cases. Although the Lithuanian Government currently does not contribute towards the costs of the provision of legal assistance, it has already allocated about 30.000 Euro to the Ministry of Interior for the year 2001. The Ministry of Interior prepared a draft protocol and amendment to the Co-operation Agreement, which aims to regulate the use of state funds for legal assistance provided by the Legal Assistance Project.

The quality of legal assistance is generally thought to be good.

- Preparation for the Dublin Convention

There is a computerised data base for the registration of refugees and asylum seekers.

The work of setting up the central register of foreigners has just been started.

A central visa database is also being set up, to which the Migration Department of the Ministry of the Interior will have access.

" Lithuania will adopt all legislation on the implementation of the procedure for processing asylum applications in accordance with the Dublin Convention and will achieve full compliance with the EU *Acquis* in the field of asylum by the end of 2002. The Law on Refugee Status will be amended by new provisions, which regulate the access of asylum seekers to the territory and return of asylum seekers to other state in line with the Dublin Convention rules....The administrative capacity will be strengthened by establishing a unit in the Migration Department responsible for the implementation of the Dublin Convention regulations. Current database of fingerprints will be restructured in accordance with the requirements of EURODAC."<sup>1</sup>

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<sup>1</sup> CONF-LT 6/02

## RESTREINT UE

"Lithuania has submitted the project proposal under the 2002 PHARE programme on Overall Management of the Processes of Asylum and Migration, Including the Creation of Register of Foreigners and Information System. The main objectives of the project are the establishment of a comprehensive asylum and migration IS/IT accessible to all responsible institutions. IS also includes a database with information on country of origin and a database with information on available interpreters."<sup>1</sup> "The establishment of a full-fledged registration system would also help to improve the inter-institutional co-operation."<sup>2</sup>

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<sup>1</sup> CONF-LT 6/02

<sup>2</sup> UNHCR