



EUROPEAN MIGRATION NETWORK (EMN)

Lithuanian National Contact Point (NCP)

*The Republic of Lithuania practices concerning the granting of non-EU
harmonized protection statuses*

CONCEPT NOTE

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The research was conducted under the European Migration Network (EMN) 2009 Work Programme. The EMN is a network composed of migration and asylum experts from EU Member States and the European Commission. Its main objective is to meet the information needs of Community institutions and of Member States' authorities and institutions by providing up-to-date, objective, reliable and comparable information on migration and asylum, with a view to supporting policymaking in the European Union in these areas. More information about EMN can be found at emn.sarenet.es. More information on the EMN National Contact Point in Lithuania can be found at www.emn.lt

Opinions expressed in the study are those of authors and do not necessarily reflect the views of the International Organization for Migration (IOM), the European Commission (EC), or the Republic of Lithuania.

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Summary

The study, carried out under the European Migration Network (EMN) 2009 programme, presents a concept note on international protection statuses granted in the Republic of Lithuania and evaluation of existing asylum system. The concept note is a part of the study on non-harmonized protection statuses granted in European Union Member States, being prepared by the European Migration Network.

Since 1 September 2000, Lithuania applies a unified asylum granting procedure, in the course of which a refugee status or subsidiary protection can be granted. Legislation also foresees an option – under extra-ordinary circumstances – to grant temporary protection status under special procedure. These three international protection statuses are harmonized on the level of the European Union. Therefore, in the Republic of Lithuania there are no other international protection forms, not harmonized on the European Union level.

Performed analysis demonstrates that in the Republic of Lithuania there is a wider list of reasons for subsidiary protection in place than defined in directive 2004/83/EC. Besides reasons mentioned in the directive, the Law on the Legal Status of Aliens foresees an option of granting subsidiary protection in Lithuania, if there is danger that rights and basic freedoms of asylum seeker would be infringed. Such wider list of reasons allows in every specific case to take into account status of asylum seeker and – when needed – does not preclude the granting of subsidiary protection even in cases, which are not foreseen in the directive. For this reason, there is no need to introduce new, non-harmonized international protection statuses.

Experts working with asylum issues give sufficiently positive assessments of the Republic of Lithuania asylum system, and the majority of experts does not see the need for introducing other international protection statuses. When discussing improvements to asylum system, experts suggest to include in the legislation of the Republic of Lithuania a mechanism that would allow the Republic of Lithuania to participate in international resettlement programs, also, consider the possibility of granting special protection status to aliens whose subsidiary protection status is not extended, but who cannot – for some reasons – to return to the country of origin.

1. Introduction. Goals and methods

Goals, scope

The concept note is a contribution of the Lithuanian National Contact Point into the research on topic “*The different national practices concerning granting of non-EU harmonised protection statuses*”, being done by the European Migration Network.

With the help of the research, the European Migration Network aims to provide detailed information about international protection statuses granted in European Union Member States, which are not regulated by European Union legislation, that is, about all forms of international protection except for:

- refugee status and subsidiary protection, granted under the Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international

- protection and the content of the protection granted¹, and
- temporary protection, granted under the Council directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof² (this form of protection was not granted in practice).

In the Republic of Lithuania the aforementioned directives were implemented on 29 April 2004 by passing the Law on the Legal status of aliens³ (therein below – the Law). Article 66 of the Law provides an exhaustive list of asylum forms provided in the Republic of Lithuania: refugee status, subsidiary protection and temporary protection. Therefore, no other international protection statuses, non-harmonized on the European Union level, are granted in the Republic of Lithuania.

For this reason, with research subject missing, the Lithuanian National Contact Point cannot carry out a detailed research on the topic “The Republic of Lithuania practices concerning the granting of non-EU harmonized protection statuses”, therefore only a concept note on forms of asylum granted in the Republic of Lithuania shall be provided.

Beneficiaries

The concept note could be useful for politicians and officials and civil servants working with asylum issues, also, to researchers, students and other individuals interested in Lithuanian asylum law and issues of granting international protection. The research on international protection statuses of European Union Member States non-harmonized in the European Union, prepared by the European Migration Network, shall assist, first of all, policy makers creating common European asylum system, also, representatives of international, non-governmental organizations and other individuals working with asylum issues.

Methodology

In preparing the concept note, the following methods were used:

- Analysis of legislation. The authors examined provisions of the Law regulating granting of asylum and related implementing legal acts, also, corresponding European Union directives.
- Statistical analysis. The research incorporates data from the Migration Department under the Ministry of the Interior about granting asylum and court cases.
- Expert survey. The authors surveyed civil servants working with asylum issues, members of Lithuanian migration network: representatives of state and municipal institutions, non-governmental and international organizations (the International Organization for Migration, Office of UN High Commissioner for Refugees) in order to establish, what are the assessments of the Republic of Lithuania asylum system, and identify its shortcomings.
- Prepared concept note was reviewed and commented upon by experts from Asylum Issues Division of the Migration Department.

¹ OL 2004 *special edition*, 19 chapter, 7 volume, p. 96.

² OL 2004 *special edition*, 19 chapter, 4 volume, p. 162.

³ Žin., 2004, No. 73-2539.

2. International protection statuses granted in the Republic of Lithuania

Definitions

In the Republic of Lithuania, only international protection statuses (forms of asylum) foreseen in directives 2004/83/EC and 2001/55/EC can be granted.

The Law⁴ states that asylum in the Republic of Lithuania – is granting of refugee status, subsidiary protection or temporary protection to alien on the grounds and according to the procedure defined in the Law.

Refugee status is granted to the asylum applicant who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it, unless there are conditions specified in Article 88 of this Article⁵. Individuals granted refugee status are issued with permanent residence permit in the Republic of Lithuania (valid for 5 years, later extended).

Subsidiary protection may be granted to asylum applicant who is outside his country of origin and is unable to return to it owing to a well-founded fear that:

- he will be tortured, subjected to cruel, inhuman or degrading treatment or punishment;
- there is a threat that his human rights and fundamental freedoms will be violated;
- his life, health, safety or freedom is under threat as a result of endemic violence which spread in an armed conflict or which has placed him at serious risk of systematic violation of his human rights⁶.

Individuals granted subsidiary protection are issued with temporary residence permit in the Republic of Lithuania. It is valid for one 1 year, later, if grounds for individual to retain subsidiary protection status are intact, subsidiary protection is granted for another 1 year and temporary residence permit in the Republic of Lithuania is replaced for one more year.

Refugee status and subsidiary protection are granted under a uniform asylum procedure: after asylum seeker submits request to grant asylum, civil servants from the Migration Department under the Ministry of the Interior, first of all, evaluate, whether the asylum seeker can be granted refugee status; if the asylum seeker does not fulfill conditions necessary for granting refugee status, decision is made on the possibility to grant him subsidiary protection. It is important to note that the Republic of Lithuania was one of the first countries to introduce a uniform asylum granting procedure, when on 1 September 2000 the Law on the Refugee status of Republic of Lithuania entered into force. Introduction of the uniform asylum granting procedure produced positive results – it allowed to save time in processing requests to grant asylum, and funds necessary for implementing asylum granting procedures.

⁴ Article 2 Part 23 of the Law.

⁵ Article 86 Part 1 of the Law.

⁶ Article 87 Part 1 of the Law.

Temporary protection is granted by a decision of the Government of the Republic of Lithuania in case of mass influx of aliens into the European Union⁷. The decision recording the fact of mass influx of aliens into the European Union is taken by the Council of the European Union. Asylum seekers by themselves cannot apply for granting this protection. Individuals granted temporary protection are issued with temporary residence permits in the Republic of Lithuania valid for one year, and later, if grounds for extending this status remain intact, temporary residence permit is replaced. In contrast to cases of subsidiary protection, temporary protection status can be extended only once and for a period not longer than one year. It is worth drawing attention to the fact that this form of protection has never been granted in the Republic of Lithuania.

Besides these forms of international protection, one should mention another form of protection (although it is not considered to be asylum), granted to **victims of human trafficking**. This form was introduced by transposing into national legislation the Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities⁸. Article 49 of the Law¹ states that a temporary residence permit can be issued to an adult alien, who is or was a victim of human trafficking and cooperates with pre-trial investigation agency or courts in fighting human trafficking or crimes related to human trafficking, provided that the pre-trial investigation agency or courts mediate in the issue of temporary residence permit to this alien. Such alien is issued with temporary residence permit for 6 months, which later can be replaced. However, this form of protection has also never been granted in the Republic of Lithuania.

Legal basis

Granting of asylum in the Republic of Lithuania is regulated by the Law and the order of the Minister of the Interior of the Republic of Lithuania No. 1V-361 of 15 November 2004 on “Approval of description of procedure of processing of asylum applications lodged by aliens, taking and implementing asylum decisions”⁹ detailing its provisions. Other supporting legislation regulates the procedure of issuing refugee’s travel document, accommodation rules of minors asylum seekers at the Refugee Reception Center and other legal relations established by launching asylum procedure or closing it by a positive decision.

Comparison of grounds for granting statuses, defined in directives and national law

According to the provisions of the Law **temporary protection** can be granted only in accordance with a decision taken by the Council of the European Union, therefore grounds for granting temporary protection in Lithuania are the same as in directive 2001/55/EC.

Grounds for obtaining **refugee status**, defined in the national law, fully correspond to grounds defined in the directive 2004/83/EC (see 1 table).

⁷ Article 92 Part 1 of the Law.

⁸ OL 2004 *special edition*, 19 chapter, 7 volume, p. 69.

⁹ Žin., 2004, No. 168-6196; 2007, No.53-2069.

1 table. Grounds for granting refugee status

According to directive 2004/83/EC (Art. 2 Clause C)	According to the Law (Art. 86 Part 1)
<p>1. Founded fear of being persecuted for reasons of:</p> <p>a) race;</p> <p>b) religion;</p> <p>c) nationality;</p> <p>d) political opinions or</p> <p>e) membership of a particular social group; and</p> <p>2. Is outside the country of his nationality or, if it is a person without nationality, – is outside of country of residence, and</p> <p>3. Is unable or, owing to fear, is unwilling to avail himself of the protection of that country or, if it is a person without nationality, – to return to that country, and</p> <p>4. There are no grounds on which refugee status is not granted¹⁰.</p>	<p>1. Well-founded fear of being persecuted for reasons of:</p> <p>a) race;</p> <p>b) religion;</p> <p>c) nationality;</p> <p>d) membership of a particular social group;</p> <p>e) political opinion; and</p> <p>2. Is outside the country of his nationality or, not having a nationality and being outside the country of his former habitual residence and</p> <p>3. Is unable or afraid to avail himself of the protection of that country or, if he does not hold nationality of a foreign country, to return to that country and</p> <p>4. There are no grounds, on which refugee status is not granted*.</p> <p>*these grounds also correspond to the grounds for refusing to grant refugee status defined in the directive 2004/83/EC</p>

When discussing granting of **subsidiary protection**, one notes that national law defines a wider list of grounds in comparison with the directive 2004/83/EC.

2 table. Grounds of granting subsidiary protection

According to directive 2004/83/EC (Art. 2 e p., Art. 15)	According to the Law (Article 87)
<p>1. Individual cannot be considered a refugee, but there is a reasonable basis for believing that if returned to the country of origin or, in the case of individuals without nationality – to the country of residence, he would face a real threat of:</p> <p>a) death penalty or execution; or</p> <p>b) torture or inhuman or degrading treatment or punishment; or</p> <p>c) serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict, and</p> <p>2. Individual cannot or – due to such threat – is unwilling avail himself to protection of that country, and</p> <p>3. There are no grounds for refusing subsidiary protection¹¹.</p>	<p>1. Individual is outside of his country of origin and there is well-founded fear that:</p> <p>a) he will be tortured, subjected to cruel, inhuman or degrading treatment or punishment by such treatment, or</p> <p>b) there is a threat that his human rights and fundamental freedoms will be violated, or</p> <p>c) his life, health, safety or freedom is under threat as a result of indiscriminate violence which emerged during an armed conflict or which creates conditions for systematic human rights violations, and</p> <p>2. Individual due to aforementioned fear cannot return to the country of origin, and</p> <p>3. There are no grounds for refusing refugee status*.</p> <p>*these grounds correspond to grounds for refusing to grant subsidiary protection defined in the directive 2004/83/EC</p>

¹⁰ Such grounds can be: asylum seeker already enjoys protection of United Nations bodies or agencies or the country of origin recognizes his rights, or asylum seeker has committed crime against peace, war crime, crime against humanity, grave non-political crime or performed actions, which contradict the aspirations and principles of United Nations and so on.

¹¹ Such grounds can be: asylum seeker has committed crime against peace, war crime, crime against humanity or grave crime or performed actions, which contradict the aspirations and principle of United Nations, or he poses a threat to society or safety of the state where he is present and so on.

As one can see from 2 table, to grant subsidiary protection, national law foresees the following additional grounds or criteria:

- fear that he will be subject to degrading treatment;
- threat arising during armed conflict faced by individual (the Law does not state that an individual has to be civilian, as it is provided in the directive);
- threat arising not only due to widespread violence during an armed conflict, but also due to widespread violence, which creates conditions for systemic human rights abuses (thus, formal examination of the definition shows that violence can arise not only during armed conflict);
- threat that asylum seeker's human rights and basic freedoms shall be violated.

There also appears a question whether directive's concept of "civil individual or his life is under threat" is revealed in national law more extensively, because word "individual" in national law is explained as "his [asylum seeker's] health, safety or freedom".

The biggest occasion for extensive interpretation is provided the Law's ground "threat that asylum seeker's human rights and fundamental freedoms will be violated". This ground does not solely include the directive's ground "threat of death penalty or execution", but also extends to a wider list of human rights and freedoms, which can be found in the Charter of Human Rights, European Convention on Human Rights and Protection of Basic Freedoms or the Constitution of the Republic of Lithuania.

Authors of the Law had not included this additional ground in the concept law; it was introduced later, when governmental institutions commented on the draft. It is likely that the purpose of this ground was to ensure that processing of asylum applications shall be very thorough: circumstances of every asylum seeker's case shall be considered and asylum request shall be rejected only when it will be very clear that individual's rights and basic freedoms would not be violated in the country of origin.

Possibility of wide interpretation of terms "human rights and basic freedoms" as well as "threat to health, safety and freedom" cherries on defenders of asylum seekers' rights, because it allows to extend the circle of individuals who could benefit from subsidiary protection. On the other hand, unclear definition of grounds for granting subsidiary protection opens up a possibility for abuse of asylum procedure: by manipulating personal circumstances of the asylum seeker, looking for facts supporting assumption that the asylum seeker's rights and basic freedoms indeed would be violated in the country of origin, also, by appealing against unfavorable decisions of the Migration Department under the Ministry of the Interior in courts. According to unofficial data, the majority of plaintiffs, appealing against the decisions of the Migration Department under the Ministry of the Interior to refuse asylum, base their appeals exactly on the fact that if plaintiff returns to the country of origin, his rights and basic freedoms would be violated. Still, the biggest share of such appeals is dismissed by courts as ungrounded and the decisions of the Migration Department under the Ministry of the Interior to refuse asylum are left standing.

3. Asylum granting procedures and rights granted under refugee, subsidiary protection and temporary protection statuses

Procedure

Aliens can submit **applications** to grant asylum (**refugee status** or **subsidiary protection**) on border crossing points or border territory to the State Border Guard Service under the Ministry of the Interior, and once inside the country – to territorial police agency or Aliens Registration Center of the State Border Guard Service under the Ministry of the Interior. If aliens stay inside the country illegally, they must submit asylum applications immediately, otherwise they can be charged with illegal entry into country or illegal stay.

Civil servant of the institution, to which application to grant asylum is submitted, carries out **primary questioning** of asylum seeker, takes all documents he holds, collects finger prints (from the age of 14), takes a picture of asylum seeker, inspects him personally and his belongings. All information obtained after this procedure and related documents are relayed by the civil servant without a delay via electronic means of communication to the Migration department under the Ministry of the Interior.

Within 48 hours from the submission of an application to grant asylum, the Migration Department under the Ministry of the Interior takes a decision to **grant (refuse) temporary territorial asylum**. Temporary territorial asylum is not granted if asylum seeker arrived in Lithuania from a safe third country, submitted an obviously ungrounded application to grant asylum or arrived from a safe country of origin (these provisions are not applicable to unaccompanied minors asylum seekers). In such case, asylum seeker (except for unaccompanied minors) is put under obligation to depart from Lithuania or is expelled. Asylum seeker can appeal against the decision not to grant temporary territorial asylum within 14 days from the day of receiving the decision to the Vilnius county administrative court. In such case, implementation of the decision to expel asylum seeker is suspended. It is important to note that the application to grant asylum is not examined in essence, when an individual submits obviously ungrounded application or arrived from a safe country of origin. In these cases, the decision is taken not only to refuse temporary territorial asylum, but also to refuse asylum (refugee status or subsidiary protection). Also, application to grant asylum is not examined in essence, when the Dublin regulation provisions are applied (another EU Member State is established to be responsible for examining asylum application). The Republic of Lithuania has not approved the list of safe third countries and safe countries of origin, in every case of application to grant asylum an individual examination is held, or a certain state is considered to be safe namely in respect of this particular asylum seeker.

Once asylum seeker is granted temporary territorial asylum, he is issued with **alien's registration certificate**, which is valid for 3 months. After the validity of alien's registration certificate has expired, it can be extended for another 3 months. This document does not give alien the right to depart from the Republic of Lithuania during the period when his application to grant asylum in Lithuania is considered.

If the asylum seeker arrived in Lithuania illegally or stays in the country illegally, but does not hold enough funds to support his accommodation within the country, he **is accommodated** at the Aliens' Registration Center. If the asylum seeker stays in Lithuania legally and has sufficient funds, by a decision of the Migration Department he can be permitted to reside in a place he chooses. Unaccompanied minors asylum seekers are accommodated at the Refugees' Reception Center.

If it is not established that the asylum seeker should be handed over to another European Union Member State¹², the Migration department must **process** the asylum application within 3 months from the day of deciding to grant temporary territorial protection. For objective reasons, the term of processing application can be extended for another 3 months.

During the asylum application processing period, asylum seekers have the following **rights**:

- to use free of charge services provided by the Aliens' Registration Center or Refugees' Reception Center, if they are accommodated in that either center;
- to manage and carry out notarial confirmation of documents, related to the application to grant asylum in the Republic of Lithuania;
- to benefit from legal assistance guaranteed by the state;
- at any time get in touch with representatives of the United Nations Higher Commissioner for Refugees Office in Lithuania;
- to receive compensation for using public means of transportation;
- to use free of charge services of an interpreter;
- to receive free of charge emergency medical assistance and social services at the Aliens' Registration Center or Refugees' Reception Center;
- to receive monthly allowance for miscellaneous expenses.
- minor asylum seekers have the right to study at general education and professional schools.

Besides the rights, asylum seekers also have **obligations**:

- to respect the laws of the Republic of Lithuania and requirements of other legal acts;
- to allow doctors to inspect ones state of health;
- to provide all held documents and detailed, truthful accounts of the motives for submitting the asylum application, ones personality and circumstances of arriving and staying in the Republic of Lithuania;
- to declare in a free form possessed funds and received funds in the period of granting territorial asylum.

After the application to grant asylum is considered, the Migration Department takes one of the following **decisions**:

- to grant refugee status and issue a permanent residence permit;
- to refuse refugee status, grant subsidiary protection and issue a temporary residence permit;
- to refuse asylum, expel asylum seeker from Lithuania.

The Migration Department can **be appealed against** within 14 days from the day of receiving the decision to the Vilnius county administrative court. If the decision was taken to expel asylum seeker from Lithuania, implementation of the decision shall be suspended for the period of case's proceedings in court.

After the final court decision is taken, if the appeal is dismissed, asylum procedure comes to an end, asylum seeker loses the special protection status and becomes an ordinary alien.

¹² The so-called Dublin procedure, performed according to 18 February 2003 Council regulation 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (OL 2004 m. *special edition*, 19 chapter, 6 volume, p. 109).

In any case, it **is forbidden to expel or return** alien to the country, where there is a threat to his life or freedom or he can be persecuted for reasons of race, religion, nationality, membership of a special social group or due to political opinions, or to a country, from where he later can be sent to such country; also, alien shall not be expelled or returned to the country, if there are serious grounds for believing that in that country alien would be tortured, subjected to cruel, inhuman or degrading treatment or he shall be punished in such way. The principle of non-return can be ignored only in the case, when alien for important reasons poses a threat to Lithuania's security or he is found guilty by court sentence of grave or very grave crime and poses a threat to society¹³. In practice, the situation whereby an individual is refused asylum, but he is still not sent to the country of origin because there he would face persecution, is not possible. Such situation would be possible only in the case when the asylum seeker would voluntarily retract his application to grant asylum and for this reason asylum procedure would be closed.

If the alien cannot be expelled for the aforementioned reasons, he is issued with a **temporary residence permit**, valid for one year, later extended. Such temporary residence permit is also issued in cases when the implementation of the decision to expel the alien is suspended for objective reasons or because the alien needs emergency medical assistance or because foreign country refuses to accept the alien, if these circumstances do not disappear within one year from the day of suspending the decision to expel alien. However, in case such residence permit is issued the alien is not considered to be granted asylum in Lithuania, his status does not differ from aliens who came to Lithuania under general procedure.

In some cases, circumstances due to which alien was granted subsidiary protection for a number of years in a row disappear. When these circumstances become known, subsidiary protection is no longer granted and asylum seeker, who enjoyed subsidiary protection for a number of years, becomes an ordinary alien and is obliged to depart from the Republic of Lithuania (if there are no other grounds, on which he can stay and continue living within the country). Sometimes, aliens who have lived in the Republic of Lithuania for many years, have established social ties and severed any ties with the country of origin, end up in a situation like this. Such aliens end up in a difficult situation, because they have no possibilities to establish themselves in the country of origin, but they also lack legal grounds for staying in the Republic of Lithuania. Such aliens are issued with temporary residence permits, on the basis of the aforementioned ground that the alien cannot be expelled due to objective circumstances. Data provided in 8 table of the concept note indicate that the number of such issued temporary residence permits is very small.

Temporary protection can be granted by decision of the Government of the Republic of Lithuania. The Migration Department due to justified reasons¹⁴ can decide not to grant temporary protection to individual aliens. Temporary protection is granted for one year. The period of this protection can be extended, but not longer than for a period of one year.

Aliens who are granted temporary protection, are allowed to enter and are accommodated in the place defined by the Government, they are issued with a temporary residence permit in Lithuania, valid for the entire period of the temporary protection, if needed, they are also issued with a travel document allowing entry into Lithuania.

¹³ Article 130 of the Law.

¹⁴ If there is serious ground for believing that alien has committed crime against peace, humanity, war crime, carried out genocide or grave non-political crime, if alien's presence in Lithuania would pose a threat to state's security or public order and so on.

Rights of individuals granted asylum

Individuals granted **refugee status** are issued with permanent residence permits in Lithuania, valid for 5 years, later extended. When requested by refugees, they can be issued with refugee travel documents, which give them the right to travel to foreign countries and to return to Lithuania.

Individuals granted **subsidiary protection or temporary protection** are issued with temporary residence permits in Lithuania, valid for 1 year. 2 months before the expiry of the temporary residence permit, the alien must approach migration services about the replacement of the temporary residence permit. If the alien does not have travel documents, he is issued with alien's passport granting him the right to depart from Lithuania and come back here.

Aliens granted subsidiary protection, who reside in Lithuania continuously and hold temporary residence permits for 5 years, can approach migration services about the issuing of a permanent residence permit in Lithuania. To obtain permanent residence permit in Lithuania, aliens must pass state language and basics of the Constitution of the Republic of Lithuania exams¹⁵.

Permanent residence permit confirms that aliens holding it are **long-term residents of the European Communities** according to directive 2003/109/EC¹⁶.

Aliens holding refugee or subsidiary protection status, who have lived in Lithuania for the last 10 years and hold permanent residence permit in Lithuania, can apply to obtain the **citizenship** of the Republic of Lithuania. Aliens granted temporary protection also could obtain, in the beginning, a permanent residence permit in Lithuania, and later – the citizenship, if, upon the expiry of the temporary protection, they would remain in Lithuania, having obtained temporary residence permit on other grounds.

To obtain Lithuanian citizenship, aliens must pass state language and basics of the Constitution of the Republic of Lithuania exams (if they are not exempted from them and, if they have already passed them, at the moment they submitted application for a permanent residence permit), to have a legal source of subsistence in Lithuania and renounce the citizenship of another state.

Individuals granted asylum, much as other aliens, enjoy the **freedom of movement**. To be able to depart from the country and later to come back, individuals granted asylum must hold travel documents: individuals granted refugee status can obtain a refugee travel document, while aliens granted subsidiary protection – alien's passport. Since these individuals have residence permits issued by the Republic of Lithuania, they can travel to Schengen states without visas, provided their stay does not exceed 3 months in the period of 6 months.

If asylum seekers' **family members** arrive together and submit asylum applications, their cases are processed together, however, decision is taken in respect of every family member separately. If one family member is granted refugee status or subsidiary protection, then other family members who arrived together are, correspondingly, granted refugee status or subsidiary protection, if family

¹⁵ [Legislation] exempts from exams individuals who turn 75 years old, individuals who are diagnosed with 0–25 percent working capacity level, individuals, who, according to procedure defined by legislation, are identified as having special needs, and those suffering from serious, chronic mental disorders.

¹⁶ 25 November 2003 Council directive 2003/109/EC concerning the status of third-country nationals who are long-term residents (OL 2004 m. *special edition*, 19 chapter, 6 volume, p. 272).

members did not provide individual motives, on whose basis they would fulfill criteria for granting refugee status or subsidiary protection.

If family members of individuals granted asylum arrive later, they can either independently apply for asylum or follow the standard immigration procedure:

The Law¹⁷ states that family members of individual granted refugee status can come to Lithuania and be issued with a temporary residence permit valid for one year. Later, this permit can be extended.

Family members of individual granted refugee status, who have lived in Lithuania for consecutive 5 years, can obtain permanent residence permits by following general procedure.

The Law¹⁸ states that aliens granted subsidiary or temporary protection in the Republic of Lithuania do not have the right to family reunification.

Aliens granted asylum (regardless of granted international protection status) in Lithuania can make use of the **integration** programme. Support for integration, provided by the Lithuanian state, includes the following areas¹⁹:

- state language instruction;
- education;
- employment;
- provision of living premises;
- social protection;
- health care.

Integration program takes place in two stages:

1. Support for integration at the Refugees' Reception Center. Support is provided for up to 8 months. If aliens fails to prepare for the second stage of integration in this period, support can be continued for another 4 months, and if the alien belongs to vulnerable groups – another 10 months. The support is provided from the day when alien is issued with a permanent or temporary residence permit in Lithuania.

During the first stage, the following support is provided:

- necessary social, health care and legal assistance services;
- intensive Lithuanian language courses (corresponding to European Council language proficiency description A1 level) and introduction to Lithuanian society courses are organized according to programs approved by the Minister of Education and Science;
- in cooperation with a territorial Labor exchange and territorial Labor market training and consulting authority, assessments of personal skills and matching jobs, professional instruction and re-qualification, job search courses are organized.

¹⁷ Article 43 of the Law.

¹⁸ Article 43 Part 8.

¹⁹ 21 October 2004 Minister of Social Protection and Labor of the Republic of Lithuania order No. A1-238 on "Approval of description of procedure on provision of Lithuanian state assistance to integration of aliens granted asylum in the Republic of Lithuania" (Žin., 2004, No. 157-5741; 2009, No. 83-3449).

2. Support for integration in municipalities (provided by municipal institutions or non-governmental agencies). This support is provided for up to 12 months from the day of alien's departure from the Refugees' Reception Center, but not longer than the period of validity of residence permit issued to alien or until alien's departure from Lithuania. If aliens from vulnerable groups fail during this period to integrate properly, the integration period can be extended, but for no longer than the period of validity of the issued residence permit. The total period of integration in both stages cannot exceed 60 months.

During the second integration stage, funds for integration, taking into account alien's needs, can be disbursed to implement the following measures:

- one-time settlement benefit;
- allowance for rent of living premises, payment for heating of premises, cold and hot water, gas, electricity and other utilities;
- monetary allowance for most basic needs;
- Lithuanian language instruction;
- allowance for school-age children's basic school-related expenses;
- payment for attendance of pre-school educational institution by pre-school aged children;
- benefits for children up to 3 years old, if they do not attend pre-school educational institutions;
- health insurance;
- other means of integration.

During the period of integration in municipalities, there are 190 hours long Lithuanian language courses organized, when needed these courses can be extended by another 100 hours. Upon completing the courses, aliens granted asylum take a state language exam.

Adult aliens have the right to **attend** general education and vocational schools, minor adults – pre-school educational groups and general education schools. Pre-school aged children are educated at nurseries, nurseries-kindergartens, kindergartens and schools-kindergartens.

During the period of integration, institutions implementing integration introduce aliens granted asylum to Lithuanian labor market, help to improve qualification, provide information and help to start a business or **find an employment** under labor contract. Aliens searching for a job can register at a territorial Labor exchange.

Individual integration into labor market plans and individual vocational training programs can be created. Using state's integration funds, new working places can be created for aliens granted asylum.

Once support designed for integration ends, aliens must themselves look for possibilities to find employment. Aliens granted asylum wishing to work in Lithuania do not need to obtain work permit.

During the period of integration, aliens are insured with compulsory **health** insurance from funds allocated for integration. After the integration is over, general health insurance rules apply: employed aliens are insured with compulsory health insurance with employer's funds, those engaged in individual activities cover insurance by themselves, while aliens registered at labor exchange are insured with state's funds²⁰.

²⁰ The Republic of Lithuania Law on Health insurance (Žin., 2002, No. 123-5512).

During the period of integration, aliens granted asylum have the following rights in the area of **social protection**:

- to receive a one-time settlement allowance;
- to receive monthly monetary allowance for the most basic needs – food, clothes, hygiene supplies, public transportation and so on;
- upon the birth of a child, to receive a one-time allowance for children, whose amount is determined by the Law on child benefits of the Republic of Lithuania;
- in case of the death of the alien, who has been granted asylum, his family members or individuals who buried him receive funeral allowance;
- to receive child allowance. This allowance is granted only to children of aliens granted asylum, who do not attend pre-school educational institutions.

When integration period is over, alien benefits from social protection according to general procedure.

4. Statistics

In the last 12 years, the Migration Department has processed more than 5 thousand applications of aliens to grant asylum, 139 individuals were granted refugee status in the Republic of Lithuania and issued with permanent residence permits, around 350 individuals enjoy subsidiary protection in the state (such individuals are issued with temporary residence permits due to armed conflicts or human rights violations taking place in their countries of origin).

3 table. Applications to grant asylum and decisions taken 2004. – 2009 1st half

Year	Number of asylum applications ²¹	Decisions taken			
		Total ²²	Grant refugee status	Grant subsidiary protection	Refuse asylum ²³
2004	458	560	12	407	141
2005	410	384	15	328	41
2006	459	444	12	385	47
2007	480	490	9	393	88
2008	540	462	12	349	101
2009 1 st half	204	270	8	118	144

Source: Data of the Migration Department under the Ministry of the Interior.

Statistics presented in 3 table demonstrates that requirements applied to refugee status are rather high, therefore only few asylum seekers are granted such status. Meanwhile, it is easier to obtain subsidiary protection, but aliens must approach authorities anew every year to extend subsidiary protection.

²¹ Provided statistics about applications submitted by aliens for the first time and repeatedly (in the case of granting subsidiary protection), also, about applications submitted by aliens transferred under Dublin procedure.

²² Decisions were taken not only on applications received that year, but also on asylum applications received in the previous year.

²³ To dismiss asylum application, to close the procedure of considering asylum application or to transfer asylum seeker to another EU Member State under Dublin procedure.

4 table. First time and repeated applications²⁴ to grant asylum in Lithuania 2004 – 2009 1st half

Year	First-time asylum applications	Repeated asylum applications
2004	167	291
2005	118	288
2006	147	307
2007	116	356
2008	210	318
2009 I p.	71	123

Source: Data of the Migration Department under the Ministry of the Interior.

In 4 table, one can clearly see that there are more repeated asylum applications submitted than there are first-time applications. This means that aliens granted subsidiary protection in the country apply to extend subsidiary protection for a number of years in a row (the number of applications to extend subsidiary protection is not capped). The majority of individuals applying repeatedly are Russian nationals of Chechen descent. Although, since 2008, first-time asylum applications from Chechens are granted less and less frequently.

5 table. Number of aliens' asylum applications in Lithuania according to nationality 2004 – 2009 1st half

Nationality	2004	2005	2006	2007	2008	2009 1st half
Afghanistan	28	20	23	22	16	10
Algeria	-	1	-	-	1	-
Angola	-	-	2	-	1	-
Armenia	1	-	1	5	2	2
Australia	1	-	-	-	-	-
Azerbaijan	1	1	-	1	-	-
Bangladesh	-	-	2	-	-	-
Belarus	4	3	7	7	15	6
Egypt	5	-	1	-	-	-
Eritrea	-	-	-	3	-	-
Ethiopia	-	-	1	4	3	-
Philippines	-	-	1	-	-	-
Ghana	-	-	6	-	-	-
Georgia	2	4	4	13	9	6
India	-	-	-	3	-	5
Iraq	2	5	4	2	4	6
Iran	-	-	-	-	1	-
Israel	1	-	1	2	-	-
Cameroon	-	1	3	3	6	-
Kazakhstan	5	-	-	3	-	2
China	-	-	-	3	2	-
Kyrgyz Republic	1	2	-	-	2	-
Congo	1	1	1	1	4	-
Cuba	-	-	1	3	8	2
Liberia	-	2	-	-	-	-
Morocco	-	-	-	4	-	-

²⁴ This number does not include asylum applications from aliens transferred from other ES states under Dublin procedure.

Moldova	-	-	1	1	-	-
Nepal	-	-	-	3	2	-
Nigeria	2	12	2	1	2	-
Pakistan	20	2	7	2	7	1
Russia	358	342	369	366	415	144
Serbia	-	-	-	-	1	-
Syria	-	-	1	1	6	6
Somalia	2	4	2	3	1	1
Sri Lanka	4	4	2	1	7	1
Tajikistan	-	-	-	1	2	-
Togo	-	1	1	1	-	-
Turkey	-	-	1	-	3	-
Ukraine	5	-	3	1	3	-
Uzbekistan	1	-	6	6	12	6
Vietnam	-	-	-	6	1	3
Zimbabwe	-	-	1	1	2	-
Stateless	14	5	5	7	2	3
Total	458	410	459	480	540	204

Source: Data of the Migration Department under the Ministry of the Interior.

6 table. Number of decisions to grant **refugee status** according to aliens' nationality 2004 – 2009 1st half

Nationality	2004	2005	2006	2007	2008	2009 1st half
Belarus	-	-	3	1	2	1
Eritrea	-	-	-	3	-	-
Ethiopia	-	-	-	-	1	-
Russia	12	15	9	1	6	6
Tajikistan	-	-	-	-	1	-
Uzbekistan	-	-	-	4	2	1
Total	12	15	12	9	12	8

Source: Data of the Migration Department under the Ministry of the Interior.

7 table. Number of decisions taken to grant **subsidiary protection** according to nationality of aliens 2004 - 2009 1st half.

Nationality	2004	2005	2006	2007	2008	2009 1 st half
Afghanistan	26	21	23	21	15	8
Armenia	1	-	-	-	-	-
Azerbaijan	2	-	-	-	-	-
Belarus	1	-	-	2	2	1
Ethiopia	-	-	-	3	3	-
Iraq	2	2	1	3	5	2
Yemen	1	-	-	-	-	-
Cameroon	-	-	2	3	5	-
Kazakhstan	4	-	-	-	-	-
Congo	1	1	1	1	1	-
Cuba	-	-	-	-	3	-
Poland	1	-	-	-	-	-
Nepal	-	-	-	-	-	1

Nigeria	2	-	1	-	-	-
Pakistan	-	2	2	1	-	-
Russia	348	288	343	341	301	94
Syria	-	-	-	1	1	1
Somalia	1	3	4	3	1	1
Sri Lanka	4	5	2	1	-	6
Togo	-	1	1	1	-	-
Ukraine	6	-	-	-	-	-
Uzbekistan	-	-	2	6	6	4
Vietnam	-	-	-	-	1	-
Zimbabwe	-	-	-	1	2	-
Stateless	7	5	3	5	3	-
Total	407	328	385	393	349	118

Source: Data of the Migration Department under the Ministry of the Interior.

As one can see from 5–7 tables, the majority of individuals applying for asylum are Russian nationals (the majority of whom are individuals of Chechen descent). The majority of these people are granted subsidiary protection status²⁵.

Data provided in 8 table about temporary residence permits issued to aliens, whose subsidiary protection status is not extended, but they cannot be expelled from the Republic of Lithuania to the country of origin due to objective reasons.

8 table. Number of temporary residence permits issued to aliens, whose subsidiary protection status was not extended, but who could not be expelled from the Republic of Lithuania due to objective reasons, 2007-2009.

Nationality	2007	2008	2009 9 months
Cuba	1	1	1
Pakistan	1		2
Cameroon			1
Uzbekistan			1
Stateless			2
Total	2	1	7

Source: Data of the Migration Department under the Ministry of the Interior.

²⁵ More information about asylum granting statistics and trends is available in 2007 statistical report prepared by the European Migration Network Lithuanian National Information.

9 table. Appeals against asylum decisions in courts 2006-2008

Year	Total decisions	Decisions to refuse asylum	Submitted appeals (% from decisions to refuse asylum)	Decisions in first instance courts			Decisions in appeals instance courts\			Appeals granted (fully or partially) (%)
				Appeal dismissed	Appeal granted (fully or partially)	Case dismissed	Appeal dismissed	Appeal granted (fully or partially)	Case dismissed	
2006	444	47	47 (100%)	24	11	2	8	2		13(27,6%)
2007	490	88	75 (85%)	35	7	4	23	1	5	8 (10,7%)
2008	462	101	83 (82%)	50	3	7	16	4	3	7 (8,4%)

Source: Data of the Migration Department under the Ministry of the Interior.

From data presented in the table one can see that decisions dismissed by the Migration Department are appealed against by a relatively large number of asylum seekers. To explain this fact, it is important to note three features. Firstly, legal assistance provided to asylum seekers is free of charge. Secondly, implementation of the decision of the Migration Department is suspended when it is appealed against in courts, therefore the asylum seeker can stay in Lithuania. Thirdly, it is not difficult to ground ones appeal on the fact that upon plaintiffs return to the country of origin his rights and basic freedoms would be violated. Presented data also demonstrates that only a very small fraction of such appeals are found to be grounded by courts. This indicates that the asylum system in the Republic of Lithuania is appropriate; work carried out by the Migration Department under the Ministry of the Interior is assessed as positive by both – asylum seekers and courts.

5. Opinions voiced within the country about procedures and forms of granting international protection

Procedures for granting asylum in Lithuania – is a very rarely discussed question in Lithuanian society. Asylum issues most often are of concern to experts working in this area and researchers, while only isolated asylum cases catch on attention of society²⁶.

Procedure of granting asylum received some attention in spring-fall 2009, when the Republic of Lithuania began to consider the possibility of joining the programme of resettling refugees from the Republic of Malta²⁷. Then it became apparent that there was one legal obstacle to the implementation of this program: according to the law of the Republic of Lithuania, only the Republic of Lithuania can decide to grant or refuse asylum to aliens; it is impossible to have a situation, where another state (in this case, the Republic of Malta) would grant an alien asylum, and then these aliens would be transferred to the Republic of Lithuania and the Republic of Lithuania would recognize their international protection status granted by another state. This provision was not criticized by society or experts, because it is recognized that the right to decide whether to grant or refuse asylum stems from the idea of state's sovereignty.

In order to clarify societal attitudes towards international protection statuses granted in the Republic of Lithuania, members of the Lithuanian National Migration Network were surveyed.

²⁶ For example, 2006 decision of the Republic of Lithuania Government to transfer 6 asylum seekers from the Republic of Malta provoked a heated reaction from society. Society's dissatisfaction was caused by information about state budget funds allocated for this project.

²⁷ In reaction to unceasing flow of refugees to Malta, EU institutions and some Member States have suggested Member States demonstrate solidarity and accept asylum seekers staying in Malta.

The majority of those surveyed gave positive assessments of the country's system and do not see the need to change it or extend with new forms of international protection. However, some critical remarks were also voiced.

The Office of the United Nations High Commissioner for Refugees (therein below – UNHCR) assesses asylum system of the Republic of Lithuania, in principle, positively, but also sees areas for improvement:

- ensuring standards of protecting basic human rights. Rights and guarantees conferred on individuals granted refugee status and subsidiary protection in the Republic of Lithuania differ and not all standards of protecting basic human rights, applicable to individuals granted subsidiary protection, are implemented. According to the UNHCR, “In Lithuania, the only country in the European Union, individuals undergoing asylum procedure are not given the right to work, there is a need to improve reception conditions and procedures for individuals with special needs, to regulate the right to family reunification for individuals granted subsidiary protection and so on.”

- too short integration period. According to the UNHCR, 1 year integration period in municipalities (applicable to individuals who do not have special needs) is not always sufficient for successful integration into Lithuanian society. After one year of integration in municipalities, refugees end up in the general state social system, which sometimes overlooks specific situation of refugees, besides, they are not considered to be a vulnerable group. Individuals granted subsidiary protection, after completion of integration in municipality program, cannot benefit from general state's social assistance system, because the system is accessible only to individuals holding permanent residence permits. Although granted subsidiary protection allows aliens to live in the Republic of Lithuania for 1 year, often, these individuals remain within the country for much longer. These gaps complicate their integration in the receiving state.

- non-participation in refugees resettlement programs. The UNHCR remarks that the need to resettle refugees in third countries significantly exceeds resettlement quotas set by states. For this reason, in the view of the UNHCR, the Republic of Lithuania should join refugee resettlement programs – resettled individuals, immediately upon arrival in the Republic of Lithuania, should be granted refugee status and issued with permanent residence permit in the Republic of Lithuania, granted state's assistance for integration.

As a way of summarizing aforementioned points, the UNHCR service suggests the following amendments:

- To improve the Law by foreseeing the right to family reunification for individuals granted subsidiary protection, defining procedures adjusted to identifying individuals with special needs, reserving the right to work to individuals, who are in the asylum procedure for longer than 6 months and so on.
- To enable individuals granted subsidiary protection to access the general social protection system, to improve the Social protection law by extending possibilities to provide social protection to individuals holding temporary residence permits in the Republic of Lithuania, if they were granted subsidiary protection in Lithuania.
- In deciding the question of resettling refugees from third countries, the Law must define certain grounds, research should be done on how resettlements are conducted by other new EU states, for example, the Czech Republic.

The integration program implemented in Lithuania also comes under criticisms of other professionals working with asylum issues. In their opinion, integration program implemented for individuals granted subsidiary protection – lasting one year – is too short; aliens do not manage to learn Lithuanian language, they find it difficult to get by without social assistance, especially if they have small children.

In the opinions of experts from the International Organization for Migration Vilnius Office, in Lithuania, there is no need to introduce new non-harmonized international protection statuses. Regulation of granting of international protection is sufficient and, as shown by practice, relatively flexible. The Republic of Lithuania has one of the highest application recognition rates. This indicates that the operating international protection system is effective. At the same time, experts emphasize that the system of integrating individuals granted international protection into Lithuanian social and economic life needs improvements.

In the opinion of another expert, one needs to resolve the issue related to individuals whose subsidiary protection status is not extended, but who cannot return to the country of origin (see section “procedures” in chapter 3 of the concept note). Currently, efforts are made to issue such individuals with temporary residence permits. However, that does not address the essence of the problem: temporary residence permits must be renewed every year, individuals lack the sense of stability, they face difficulties in finding employment. For this reason, in the opinion of the expert, people who lack grounds for extending subsidiary protection, but whose social ties would be disrupted if they were sent out to the country of origin, and they would face difficult re-integration problems in the country of origin, ought to be given a special protection status allowing them to stay and reside in the Republic of Lithuania.

On the other hand, such individuals have the possibility after living in the Republic of Lithuania for 5 years to pass basics of the Constitution of the Republic of Lithuania and Lithuanian language exams and obtain permanent residence permits in the Republic of Lithuania. The fact that aliens fail to exercise this possibility (for example, because they do not learn Lithuanian language) is a subjective reason depending on the will of an alien rather than on shortcomings of legal regulation.

To summarize, one can tell that experts do not see the need to extend the list of grounds for granting international protection or to introduce new, non-harmonized international protection statuses in Lithuania.

6. Conclusions

The concept note was prepared under the European Migration Network 2009 annual programme and contributes to European Migration Network research “*The different national practices concerning granting of non-EU harmonised protection statuses*”. The aim of this research, prepared by the European Migration Network, is to prepare an overview of non-harmonized international protection statuses granted in European Union Member States.

The Republic of Lithuania grants only international protection statuses harmonized in the EU, that is, refugee status and subsidiary protection (according to the Council Directive 2004/83/EC) and temporary protection (according to the Council Directive 2001/55/EC). By implementing the Council Directive 2004/81/EC, Lithuania also grants the right to temporary residence to third country nationals victims of human trafficking, who cooperate with a pre-trial investigation institution. Although it is not considered to be asylum, and this status does not confer any social guarantees, such ground is legalized in Lithuania. Lithuania does not grant other international protection statuses non-harmonized on the EU level.

The concept note points out that the Law on the Legal status of aliens of the Republic of Lithuania defines a wider list of grounds for subsidiary protection than the list of grounds defined in the Council Directive 2004/83/EC. According to the Law of the Republic of Lithuania, an individual can be granted subsidiary protection if there is threat that the asylum seeker’s human rights and basic freedoms would be violated. Such provision of the Law extends the list of grounds defined in the directive and brings certain flexibility, but at the same time increases indetermination. According to unofficial data, the majority of appeals against the Migration Department decisions to refuse asylum are filed with reference to the human rights and basic freedoms. On the other hand, such legal regulation allows to react in a flexible manner to every asylum seeker and to assess even those motives that are not included in the EU directive.

The expert survey has demonstrated that the majority gives positive assessments to the procedure of granting asylum in place in Lithuania and at this time they do not see the need to introduce new national international protection statuses, non-harmonized on the EU level. At the same time, experts remark that it is necessary to improve the integration system of individuals granted international protection.

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