

European Migration Network (EMN)

Lithuanian National Information Centre

**PROGRAMMES AND STRATEGIES FOSTERING
VOLUNTARY RETURN FROM THE REPUBLIC OF
LITHUANIA AND RE-INTEGRATION IN THIRD
COUNTRIES**

VILNIUS, 2010

TABLE OF CONTENTS

EXECUTIVE SUMMARY	3
1. PURPOSE AND METHODOLOGY OF THE STUDY	4
2. DEFINITIONS, CATEGORIES OF RETURNEES AND AVAILABLE STATISTICAL DATA.....	5
2.1. DEFINITIONS	5
2.2. CATEGORISATION OF RETURNING MIGRANTS.....	7
2.3 STATISTICAL DATA ON ASSISTED RETURN	10
3. THE POLITICAL AND LEGAL FRAMEWORK REGULATING AVR.....	15
3.1. THE POLITICAL AND LEGAL FRAMEWORK IN THE REPUBLIC OF LITHUANIA	15
3.2. THE INFLUENCE OF EUROPEAN POLICY, LEGISLATION AND FUNDING	17
4. OVERVIEW OF ASSISTED RETURN MEASURES	19
4.1. AVR MECHANISM.....	20
4.2. MOTIVES FOR ASSISTED RETURN	22
4.3. OBSTACLES TO ASSISTED RETURN	23
4.4. ORGANISATION OF ASSISTED RETURN MEASURES	25
5. RE-INTEGRATION AND SUSTAINABILITY OF RETURNS	26
6. CONCLUSIONS.....	27
BIBLIOGRAPHY OF SOURCES:	29
ANNEX 1.....	30
ANNEX 2.....	33

Executive summary

The term of assisted voluntary return (AVR) is not used in Lithuanian legislation or other regulatory documents of Lithuanian state institutions. The provision of AVR has not been assigned to the competence of any ministry or other public authority. The Lithuanian Government has reserved the provision of AVR to the non-government sector.

In Lithuania, AVR has been provided since 1998 by the International Organization for Migration (IOM), Vilnius Office¹. The assistance is provided under existing projects, and since 2005 this has been exceptionally funded by EU funds. The IOM Vilnius office is the only organization providing such assistance in Lithuania.

As AVR is provided on the basis of the projects, its availability and target groups depend on the conditions of a particular project. When projects are changed, the target groups change as well, and when the IOM has no specific project, such assistance is generally unavailable. During the analyzed period (2004-2009) in Lithuania, AVR was not provided during the entire year of 2004, January-August 2006, and in 2009. For this reason, no stable system for AVR has been developed and there is no continuity. It is likely that the situation will change in 2010 with the start of the European Return Fund's annual programmes.

Funding of voluntary return programme from projects leads to the volatility of the target groups. For example, during the period of 1998-2002, AVR may have been used by illegal migrants in Lithuania, and during the period of 2005-2008 this assistance was only available for asylum seekers and aliens lawfully staying in Lithuania in accordance with the European Union Refugee Fund (ERF) program. From 2010 onwards, the annual programme of the European Return Fund (RF) covers both the individuals legally residing in the country (having international protection, and asylum seekers) and those whose legal basis of stay has expired and who have the obligation to depart.

During 2005-2008, a total of 65 migrants who benefited from AVR left Lithuania. During the same period (2005-2008), 608 foreigners were removed compulsorily. Such a big difference between voluntary and compulsory departures is explained by the narrowness of the target groups and the established practice that in most cases the IOM Vilnius office was contacted for assistance when the return was complicated, i.e. when migrants were returning to distant countries (Nigeria, Pakistan, Georgia, and Vietnam).

During 2005-2008, the majority (over 40%) of the returnees were citizens of the Russian Federation (Chechen ethnicity). Due to the political situation, they were submitting the biggest share of applications for asylum in Lithuania. In most cases they were granted subsidiary protection. At the end of the integration programme and end of financial support from the State, part of the persons wanted to go back to their country. Some of them used AVR.

Until 2010, the AVR included migrant counselling, paperwork, organization of travel and transit, and coverage of their initial costs upon arrival. In 2010, as a part of the Return Fund's annual programme, pilot reintegration projects in Moldova and Georgia were launched. While most people want to return voluntarily to the Russian Federation (Chechnya), due to technical difficulties, reintegration assistance to Chechnya in 2010 will not be offered.

¹Since the Vilnius Office of the International Organization for Migration (IOM) is the only institution providing AVR in Lithuania, reference to the activities carried out by the IOM in this study also includes the entire system of voluntary return existing in Lithuania.

Voluntary return is beneficial to the state because of its speed, flexibility, sustainability, price and relief of the system load (less pressure on the return and the asylum systems). For migrants, voluntary return is useful for the following reasons: a humane process and respect for human rights, including quick and timely assistance considering the migrant needs and safety.

The following **main obstacles** can be distinguished in implementing voluntary return projects:

- Limitations of the financing of AVR on the project basis. Due to the project funding and programming there are periods when AVR is not provided. To create a stable return system and win the confidence of migrants, it is necessary to ensure that the assistance is provided without interruption. Interruptions should be covered by public funds.
Project fragmentation adversely affected the entire process of voluntary return and prevented the creation of a long-term well-functioning system of voluntary return.
- Limitations of target groups. The target groups envisaged in the projects are not always in conformity to the specificity of certain countries. National resources should be used for the financing of voluntary returns of migrants who are not covered by the framework of the European projects, but whose voluntary departure is a concern of the state.
- Lithuania has no voluntary return system. There is no legal document that clearly regulates the voluntary return, or that defines the co-operation and competence of the state and organizations involved in the returns. Currently, such an agreement for cooperation is being drafted.
- Travel organization. Voluntarily returning migrants cannot return through other Schengen airports, because there is no unified form of the obligation to depart which could serve as a document recognized by other states and allow a migrant to return through other Schengen airports, depending on such an arrangement.
- Specific cases (stateless persons, when none of the states want to accept them).

In Lithuania, these deficiencies became evident before the launch of the long-term Return Fund program. It is likely that this long-term programme will solve some problems. However, it is also likely that other problems may develop. It would therefore be useful to perform the European Return Fund monitoring in all countries after 3-4 years.

1. Purpose and Methodology of the Study

The **aim of this study** is to review the AVR programmes carried out in Lithuania in 2004-2009, to assess the need for such programmes, as well as to provide an overview of the migrants' motives and emerging obstacles to the use of the AVR programmes. This study is part of the European research carried out by the European Migration Network (EMN), which aims to summarize the experience of all the EU Member States in the AVR programmes, and thus contribute to a common European policy in this field and to address emerging obstacles.

Aims of the study:

- Presentation of the overview of the AVR programmes conducted/carried out in Lithuania throughout 2004-2009
- Assessment of existing barriers restricting the migrants' access to these programmes
- Assessment of the motivation of migrants to participate in the voluntary return and reintegration programmes
- Overview of efficiency and continuity of AVR programmes
- Identification of problems in implementing the AVR programmes

Subject matter of the study: The study analyzed the AVR programmes carried out in Lithuania throughout 2004-2009.

Method of the study: The key method of this study was a desk-research of available information provided by public, nongovernmental and international organizations.

The study further included the analysis of the following sources:

- Legal and procedural documents
- Statistical information
- Voluntary return project reports
- Overview of valuable pertinent studies (secondary sources)
- Expert surveys (IOM, State Border Guard Service, Foreigners Registration Centre, Migration Department)

2. Definitions, Categories of Returnees and Available Statistical Data

2.1. Definitions

The Law *on the Legal Status of Aliens of the Republic of Lithuania* (Official Gazette, 2004, No 73-2539) is the main legal instrument governing the issues of entry, stay, departure and expulsion, and return of foreigners. The Law does not mention the definition of AVR. However, the Law provides four forms for the departure of foreigners from Lithuania and uses the following concepts to define them:

Departure. The Law provides that an alien must depart from the Republic of Lithuania before the expiry of a visa or temporary residence permit.

Obligation to depart from the Republic of Lithuania means a decision made in accordance with the procedure established by legal acts obliging an alien to depart voluntarily from the territory of the Republic of Lithuania within a specified period of time (15 days²). The obligation to depart corresponds to the *voluntary departure* concept in the Return Directive.

An alien is obligated to depart from the Republic of Lithuania if:

- 1) the alien's visa has been annulled;
- 2) the alien's temporary residence permit or permanent residence permit has been withdrawn;
- 3) the alien stays in the Republic of Lithuania after the expiry of his visa;
- 4) the alien stays in the Republic of Lithuania after the expiry of a temporary residence permit;
- 5) the alien entered the Republic of Lithuania lawfully, but stays in the Republic of Lithuania without possessing a temporary or permanent residence permit, where he is obliged to possess one;
- 6) the alien has been staying in the Republic of Lithuania for a period exceeding the period of visa-free stay;
- 7) the alien entered the Republic of Lithuania being in possession of a visa issued by another Schengen State, which does not entitle him to stay in the territory of the Republic of Lithuania.

The obligation to depart, giving the freedom to the migrant to depart voluntarily, is only issued if the foreigner came to Lithuania and stayed there legally, but his legal residence period has expired and no longer meets the conditions of his stay or residence in Lithuania.

² After the transposition of the Return Directive, this term will be from 7 to 30 days.

Expulsion from the Republic of Lithuania means the compulsory transportation or removal of an alien from the territory of the Republic of Lithuania in accordance with the procedure established by legal acts. This is the ultimate measure applied on aliens subject to expulsion. Expulsion is compulsory and enforced by the relevant state authorities. It corresponds to the *return decision* concept in the Return Directive.

An alien is expelled from the Republic of Lithuania if:

- 1) the alien has failed to comply with the obligation to depart from the Republic of Lithuania within a set time period;
- 2) the alien has entered or stays in the Republic of Lithuania unlawfully;
- 3) the alien's stay in the Republic of Lithuania constitutes a threat to national security or public policy;
- 4) a decision has been made to expel the alien from another state to which the Council Directive 2001/40/EC of May 28, 2001 on the mutual recognition of decisions on the expulsion of third country nationals applies".

The decision to expel an alien from the Republic of Lithuania must be carried out immediately. If a foreigner cannot be expelled to his country of origin, his expulsion procedure is suspended. Art. 132 of the Law provides that if the circumstances which led to the suspension of an alien's expulsion have not disappeared within one year, the alien shall be issued a temporary residence permit³.

Return to a foreign country means the transfer of an alien to his country of origin or a foreign country to which he has the right to depart from in accordance with the procedure established by legal acts and upon the decision agreed with that country. The return is carried out under readmission agreements and corresponds to the *return decision* concept in the Return Directive.

Currently, the Republic of Lithuania has concluded readmission agreements with 24 countries (a list is attached, Annex 2). The Republic of Lithuania is negotiating with the Russian Federation on the draft readmission implementation protocol; there is ongoing work on the draft readmission agreements of the Republic of Lithuania and Georgia and the Republic of Kazakhstan, draft implementation protocols of the EC and the Republic of Serbia and the EC, and the former Yugoslav Republic of Macedonia on the readmission of illegally residing persons.

Although the legislation does not currently define the concept of assisted voluntary return, in practice, the definition of the IOM is used. According to this definition:

Assisted voluntary return means an alien's return to his country of origin, country of transit or a third country by his free will by providing assistance to him/her. It is important to note that "free will" is an important aspect of voluntary return, and the IOM provides assistance to return only if the person is determined to return without any coercion and expresses his/her intention to return voluntarily in writing⁴, i.e. each alien returning with the assistance of the IOM completes a voluntary return form where (s)he states about returning to his country of origin, transit or third country on a voluntary basis⁵.

Under the AVR programmes, AVR is not provided to persons for whom the decision on expulsion or return takes effect. In addition, the IOM's internal rules provide that the assistance to voluntary return is granted only to migrants who return to a safe country of origin.

³ After the transposition of the Return Directive, temporary residence permits on this basis will be issued after 18 months.

⁴ There shall be no representatives of power structures in the room when the alien is making up his mind.

⁵ The IOM Vilnius Office form is attached (Annex 1).

The European Migration Network's specification lists four possible scenarios for the departure of third-country nationals from a Member State:

First scenario: a third-country national who holds a valid residence permit returns to the third country on a voluntary basis without the obligation to depart. This scenario covers all persons staying legally in the country. AVR is provided only to those who are using any form of international protection in Lithuania, i.e. persons who have a refugee status or subsidiary protection, and decide to return to their country of origin or another country. In 2005-2008, assistance has been provided to such foreigners and asylum seekers who are "in the procedure", i.e. have submitted an application for asylum and are awaiting a decision. Assistance under this scenario will be provided under the annual programme of the Return Fund starting in 2010.

Second scenario: a third-country national does not possess a valid permit to stay/reside in a Member State and departs to a third country before he/she is detained by public officials. Such cases are possible in Lithuania, but they are not recorded. If a person entered into Lithuanian territory illegally, stays here illegally but departs before (s)he is detained by officials, there is no information about him/her. AVR may not be granted to such person.

Third scenario: a third-country national who has no valid permit to live/stay in a Member State, who has already been issued an obligation to depart and who consents voluntarily to depart the Member State within a specified period of time. This person may use AVR in accordance with the annual programme of the European Return Fund. It should be mentioned that during 2004-2009, aliens attributed to this target group could not use AVR according to ERF-funding.

Fourth scenario: a third-country national who has no valid permit to live/stay in a Member State, who has already been issued an obligation to depart and who failed to depart within the specified period of time. Such a person is expelled from the state. In such cases, AVR is not provided because there is no voluntary basis.

2.2. Categorisation of Returning Migrants

AVR in Lithuania is provided by the IOM Vilnius Office under the existing projects, therefore, this assistance is only available to foreigners who fall into certain target groups. It will depend on a specific project whether a migrant falls into a category eligible for assistance. Since 2005, AVR took place under ERF funded projects. There were no other sources of funding.

The IOM Vilnius office staff says that due to financing AVR projects on a project basis this situation prevailed until the beginning of 2010 (before the start of the European Return Fund's annual programme) and it impeded the provision of AVR, lead to changes in projects, the migrant groups eligible for assistance. The project fragmentation adversely affected the entire process of voluntary return and prevented the creation of a long-term well-functioning system of voluntary return and winning the confidence of migrants. More often than not, the IOM was unable to help those who needed assistance but could not be attributed to the specific group.

In most EU countries, the problem is dealt with by national governments who allocate funds for voluntary return including that of migrants outside the target groups of existing projects, but due to the specifics of the country, decide that they are entitled to AVR. This allows room for flexibility in assistance organizations responding to each case. The Lithuanian government does not fund the assistance of any individual case. It only co-finances the EU projects. However, after the beginning of the implementation of the annual programme of the Return Fund, the problems of the target

groups began to decline, as the Fund Requirements are better adapted to the situation in Lithuania and a larger number of persons are covered by the target group.

Groups of migrants departing from the territory of the Republic of Lithuania and availability of AVR:

- Third-country nationals who are legally in the country, but for personal reason decide to return to their countries of origin or another third country. This group also includes individuals who use any form of international protection in Lithuania and asylum seekers "in the procedure", i.e. those who have applied for asylum, but their application has not yet been finally processed and they decide to depart from Lithuania. Persons falling within this group are eligible for AVR. The IOM Vilnius office has provided AVR from the Refugee Fund of 2005-2008 to third country nationals who have benefited from any form of protection in the Republic of Lithuania and to asylum seekers "in the procedure". Persons falling within this category can also use AVR according to the Return Fund's annual programmes launched in 2010.
- Third-country nationals who came to the Republic of Lithuania legally, but whose legal residence expired (revoked /expired visa, revoked/expired temporary or permanent residence permit in the Republic of Lithuania, who exceeded the allowable time of stay) and who have or will receive the obligation to depart from the country. Such persons may depart from Lithuania only after having the necessary documents and the obligation to depart⁶. AVR for such persons prior to the implementation of the annual programme of the Return Fund (January 2010) was not provided. However, that possibility exists now.
- Third-country nationals illegally entering the country and illegally staying there. Under the existing law, an illegal border crossing incurs a criminal liability on an alien. Therefore, all third-country nationals who come to the Republic of Lithuania illegally are detained at the Foreigners Registration Centre, and the expulsion or return procedure is initiated in regards to them⁷. Expulsion / returns are carried out on a compulsory basis. An exemption only applies to the victims of trafficking.
- Third-country nationals whose stay threatens the state's security or public order. These aliens are expelled according to the Vilnius Regional Administrative Court decision.

Table 1. Categorisation of returning migrants

Category	Status in the state	Deportation method	Term	AVR
Third country nationals	Staying legally in the country	None. Departs on his own accord	None	Not provided
Asylum seekers	Staying legally in the country	None. Departs on his own accord	None	During 2005-2008, funded by the European Refugee Fund. Since 2010, funded by the Return Fund.
Refugees and persons granted subsidiary protection	Staying legally in the country.	None. Departs on his own accord	None	During 2005-2008, funded by the European Refugee Fund. Since 2010, funded by the Return Fund.

⁶Obligation to depart may be drafted on the moment of departure at the border post.

⁷This provision of the law does not apply to asylum seekers who after arrival to the Republic of Lithuania immediately submit an applications for asylum as well as victims of human trafficking.

Third country nationals	Term of legal residence in the country expired	Obligation to depart	Up to 15 days	Since 2010, funded by the Return Fund.
Third country nationals	Entered the country illegally and staying illegally	Return Expulsion	Immediately	Not provided. Exception: victims of trafficking. AVR to them is funded from the Return Fund.

Categories of migrants receiving AVR under the 2005-2008 projects:

Since 2004, AVR programmes in Lithuania have been funded exclusively by EU funds (with government co-financing). Therefore, the migrant categories that may benefit from AVR are identified by the EU-funded programmes and subject to change depending on the year.

January 2005-December 2005, AVR funded by the European Refugee Fund

Migrant categories:

- Third-country nationals whose applications for asylum in Lithuania was rejected
- Third-country nationals who have applied for asylum, but decided to return to their country of origin
- Persons who have refugee status in Lithuania
- Persons under subsidiary protection and having a temporary residence permit, but whose temporary permit period is coming to an end or has expired and is not to be extended (the temporary permit is issued for one year with the right of extension)

The 2005 programme included both individuals who any form of international protection in Lithuania, but for personal reason decide to return to their country of origin, and asylum-seekers who are still in the procedure or whose applications for asylum were rejected, i.e. it includes both legal and illegal (asylum claim rejected) asylum seekers in the country. As shown by the statistics of the IOM Vilnius Office, the vast majority of asylum seekers only decide to return when their application is rejected.

January 2006 -August 2006 – no voluntary return projects.

August 2006-December 2008, voluntary return programme funded by the European Refugee Fund

Migrant categories:

- Third-country nationals or stateless persons enjoying international protection in the Republic of Lithuania in accordance with national legislation (refugee status or subsidiary protection);
- Third-country nationals or stateless persons who have submitted applications for any form of protection.

The programme of 2006-2008 covers only legally staying refugees in Lithuania and no longer covers asylum seekers whose applications for asylum were rejected. If asylum is denied, such migrants are unable to benefit from the IOM's assisted voluntary return. This clearly narrowed the target group to whom AVR may be granted.

January 2009 - December 2009 – no voluntary return projects.

Since January 2010, voluntary return projects financed by the Return Fund have been launched

According to the provisions of the annual Return Fund programme, voluntary assistance in Lithuania may be used by third-country nationals who fall into these categories:

- Third-country nationals who have not yet received a final negative decision on their application for international protection in a Member State and who may choose voluntary return, if they have not acquired a new nationality and have not left the territory of that State;
- Third-country nationals who enjoy international protection or subsidiary (temporary) protection in a Member State, who choose voluntary return, if they have not acquired a new nationality and have not left the territory of that Member State;
- Third-country nationals who do not or no longer meet the entry and (or) stay requirements in a Member State and who, while discharging the obligation to depart from the territory of that Member State, have taken advantage of the voluntary return opportunity.

According to the annual programme of the Return Fund, the categories of voluntary returning persons of third countries cover both third-country nationals legally and illegally staying in the country. Such extension of categories is seen by practitioners in a very positive light, because statistics show that most of those who want to make use of a voluntary return programme in Lithuania are third-country nationals who have received the obligation to depart or whose application for asylum has been rejected.

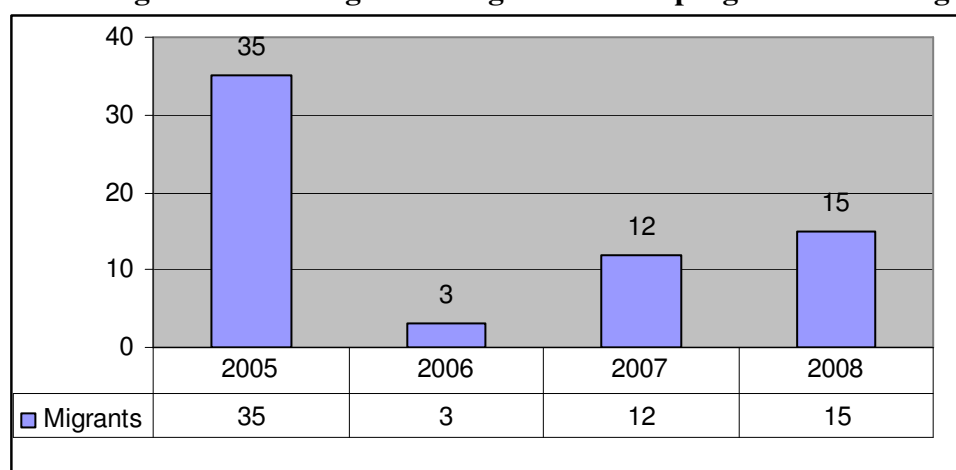
From 2010 on, AVR will also be provided for particularly vulnerable groups of migrants (serious patients, victims of human trafficking, etc.).

2.3 Statistical Data on Assisted Return

This section contains statistical information on the third country nationals who used AVR in Lithuania. Since the voluntary assistance in Lithuania is provided by the IOM Vilnius Office, the data provided by the IOM's Vilnius office was used in the study.

During the period of 2005-2008, a total of 65 third-country nationals left Lithuania by using AVR⁸.

Fig. 1. Number of migrants returning according to the AVR programmes during 2005-2008



Source: IOM Vilnius office data

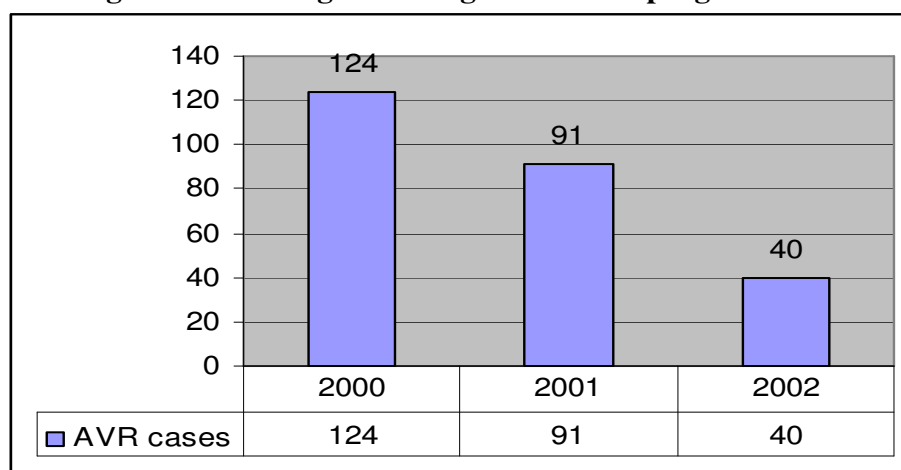
As we can see, the largest number of aliens (35) left Lithuania using AVR in 2005. The number of persons leaving significantly fell in 2006. The reasons of such a sharp decrease can be as follows:

⁸ In 2004, AVR programmes were not executed, because they were not financed.

- Significant narrowing of the target group. In 2006, the programme did not include persons who were denied asylum and had to depart from Lithuania. As shown by the statistics, the number of such persons is the greatest.
- The programme of 2005 was initiated after a 2-year break. Throughout 2003-2004, there were no AVR programmes at all, so the result was a higher number of people willing to use AVR when it became available.
- The Refugee Fund programme of 2006 was only launched in August 2006, so little time was left to implement it.

For comparison, we provide statistical information for the years 2000-2002, when the IOM Vilnius Office conducted large-scale AVR programmes.

Fig. 2. Number of migrants returning according to the AVR programmes in 2000-2002



Source: IOM Vilnius office data

If the data for the years 2005-2008 is compared with the 2000-2002 period data, one notices a significant reduction in the number of foreigners who departed after benefiting from AVR. For example, in 2000, the voluntary repatriation programme was used by 124, in 2001 by 91, and in 2002 by 40 persons. Meanwhile, in 2005 there were 30 persons, in 2006 only 3 persons and in 2007 and 2008, 12 and 15 people respectively. The reasons for this substantial decline are:

- A decrease in the number of illegal migrants coming to Lithuania. In particular, after the programme on the return of illegal immigrants from Lithuania conducted throughout 1998-2002.
- The target group that could benefit from AVR was markedly narrowed. According to the provisions of the Refugee Fund for 2006-2008, AVR was only available to persons who were legally in the country. Therefore, a large proportion of the illegally staying persons who most frequently used AVR could not benefit from it. During 2000-2002, AVR was available to all persons staying in the country (even illegally).

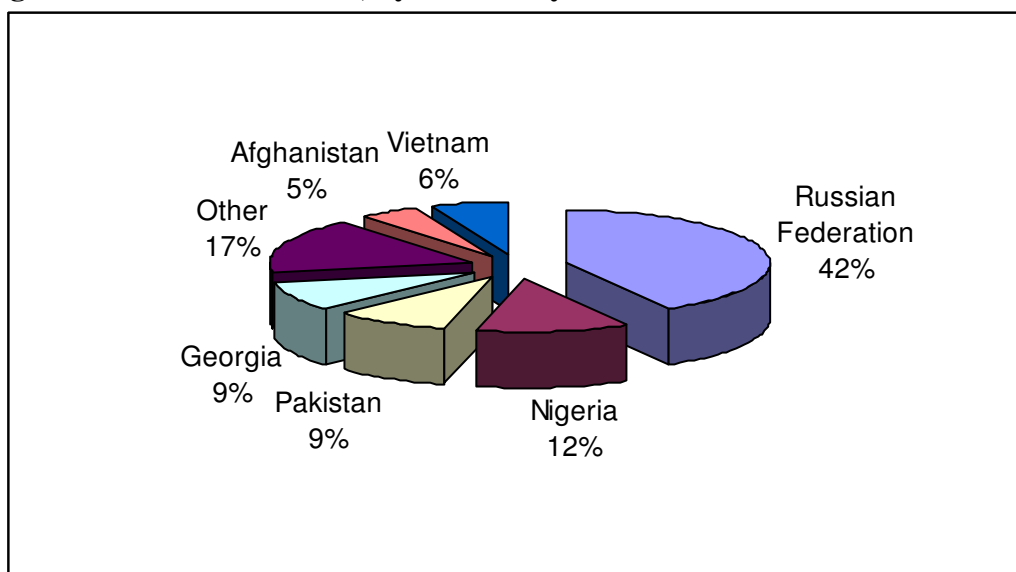
Table 2. Countries of those who used the AVR programmes to return, 2005-2008

Country	Number/percent of total	Country	Number
Russia	27 (41.5%)	Algeria	1
Nigeria	8 (12.3%)	Armenia	1
Pakistan	6 (9.2%)	Azerbaijan	1
Georgia	6 (9.2%)	Cameroon	1
Vietnam	4 (6.2%)	Ethiopia	1
Afghanistan	3 (4.6%)	Iran	1
Bangladesh	2 (3%)	Iraq	1
		Israel	1

	Kyrgyzstan	1
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Source: IOM Vilnius office data

Fig. 3. Migrants who used the AVR, by nationality



Source: IOM Vilnius office data

Due to the Lithuanian geographical situation and policy, the majority of those who exercised the use of AVR during the period of 2005-2008 were Russian citizens of Chechen ethnicity. They accounted for over 40% of all returnees that utilized the voluntary assistance of the IOM. Such a large figure of citizens of Chechen ethnicity is natural, because Russian nationals of Chechen ethnicity submit the highest number of asylum applications in Lithuania (more than 70% of asylum applications in Lithuania are annually submitted by Russian citizens of Chechen nationality). They are often granted subsidiary protection for one year with an option to extend it. For personal reasons or if their integration is not successful, they decide to go back to their country of origin. Following this group are those from Nigeria, Pakistan and Georgia.

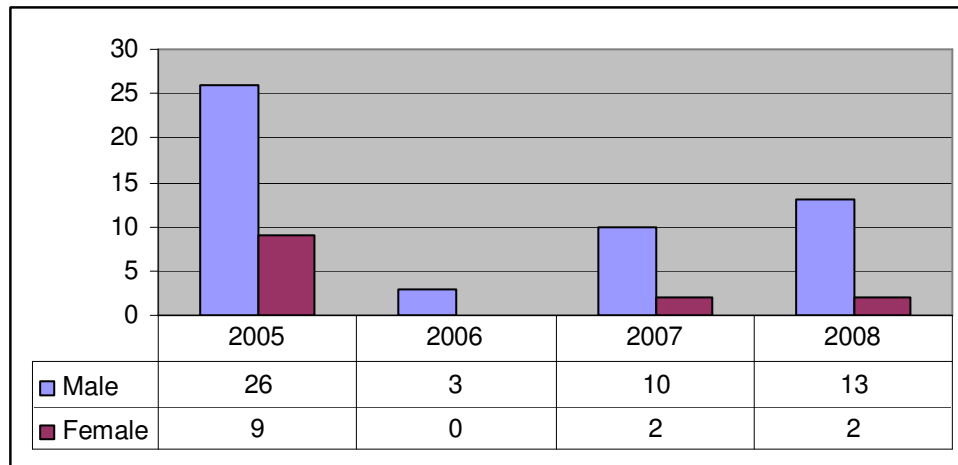
Table 3. Number of voluntary and compulsory departures by year and by country, 2005-2008

Country	2005		2006		2007		2008	
	AVR	Expelled	AVR	Expelled	AVR	Expelled	AVR	Expelled
Russia	22	52	0	32	2	38	3	33
Ukraine	0	21	0	11	0	12	0	11
Belarus	0	36	0	26	0	35	0	31
Moldova	0	22	0	45	0	23	0	7
Nigeria	1	0	0	10	4	10	3	1
Georgia	0	3	1	3	3	1	2	2
Pakistan	6	2	0	3	0	2	0	0
Vietnam	3	0	0	0	0	0	1	1
Afghanistan	3	0	0	0	0	0	0	1
Bangladesh	0	0	0	0	2	0	0	0
Armenia	0	1	0	1	1	2	0	3
Azerbaijan	0	3	0	3	0	1	1	4
Kyrgyzstan	0	1	0	1	0	0	1	4
Other	0	41		13	0	22	0	45
Unknown	0	7	0	1	0	1	0	4
Total	35	189	3	149	12	147	15	137

Source: IOM Vilnius office and SBGS data

From the data in the table it is visible that most of the assistance is provided for returns to the Russian Federation (Chechnya) and other distant countries - Nigeria, Pakistan, Afghanistan and Vietnam. Meanwhile, the State carries out most of its expulsions/returns to the closest neighbouring countries (Russia, Ukraine, Belarus, and Moldova). The practice now prevailing in Lithuania is that complex cases of return are often referred to the IOM Vilnius office.

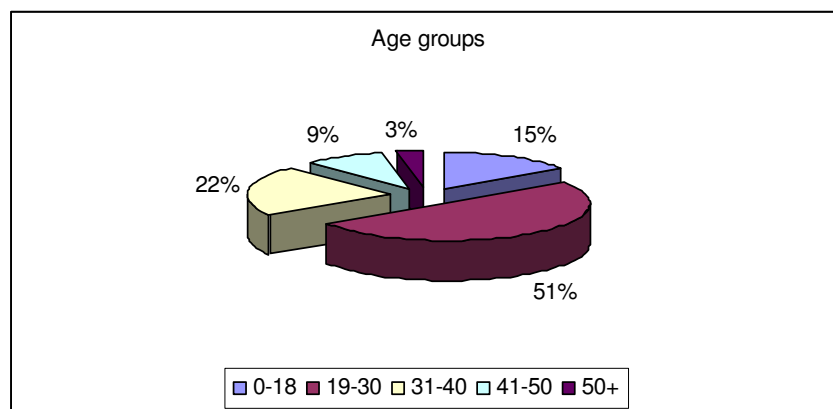
Fig. 4. Migrants who used AVR, by gender, 2005-2008



Source: IOM Vilnius office data

Most of the assistance for returnees provided by the IOM during 2005-2008 was to men (80%).

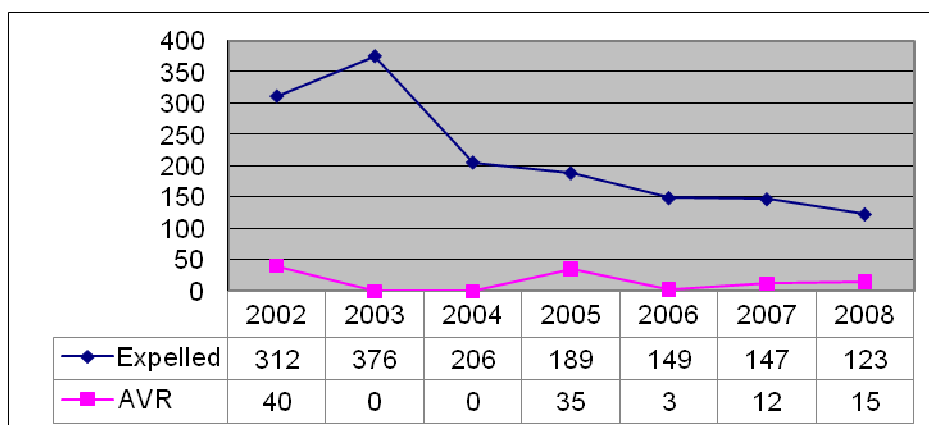
Fig. 5. Distribution of migrants who used AVR, according to age group.



Source: IOM Vilnius office data

Most of those who used AVR are 19-30 years old. There were many cases (especially among the Chechen nationality asylum seekers) where the whole family departed from Lithuania. Moreover, there were many families with small children less than a year old.

Fig. 6. The number of expelled persons and those who used the AVR programmes throughout 2002-2008



Source: IOM Vilnius office data, SBGS data

Looking at the cases in Lithuania, the comparison of the number of expelled people and those who used AVR is not fully adequate. The comparisons do not reflect the needs, but only reflect the situation. The number of those returning according to AVR projects largely depends on the narrowness/latitude of the project target groups. As one can see from the table, the number of people who returned on their own accord compared to the number of expelled individuals is relatively low. In 2005, the voluntary departures accounted for 18.5%, in 2006 for 2%, in 2007 for 8%, and in 2008 for 11% of the persons. This is explained by the fact that only a very small proportion of migrants during 2005-2008 could use AVR. AVR during 2006-2008 was only available to individuals staying legally within the country. Meanwhile, those whose legal basis of stay in the country expired or who were in the country illegally were expelled/returned by the State. Since the implementation of the annual programmes of the Return Fund, the situation has changed substantially. It is likely that the number of persons departing on a voluntary basis will increase.

Reasons for return

The vast majority of those who want to use AVR are individuals who have been unable to integrate or adapt themselves to Lithuania. These are mainly persons of Chechen nationality from the Russian Federation. They come to Lithuania and submit applications for asylum. Before 2009, in Lithuania, such requests were usually met; persons were granted subsidiary protection, and an integration period lasting for one year. Often, at the end of the integration programme and without receiving cash benefits, a person would decide to go back to their home country.

The main reasons why people were seeking AVR and contacted the IOM Vilnius office during 2005-2008 were:

- They returned due to a changed situation in their country of origin
- They were unable to adapt in Lithuania (could not find a job), and the public assistance for their integration was discontinued.
- They could not bring family members (only those who have been granted refugee status are entitled to family reunification)
- For other family reasons (sickness in the family in the country of origin/other circumstances in the family in the country of origin)
- Suspense of the asylum procedure and change in opinion. A significant number of asylum seekers during the asylum procedure, which lasts up to 6 months, during which they are unable to work, decide to go back using AVR.

It is also important to note that changes in the target groups (migrant categories) may result in changes in the reasons for their departure.

3. The Political and Legal Framework regulating AVR

3.1. The Political and Legal Framework in the Republic of Lithuania

The provision of AVR has not been assigned to the competence of any ministry or other public authority. The Lithuanian Government has reserved the provision of AVR to the non-government sector. In Lithuania, AVR has been provided since 1998 by the International Organization for Migration (IOM), Vilnius Office.

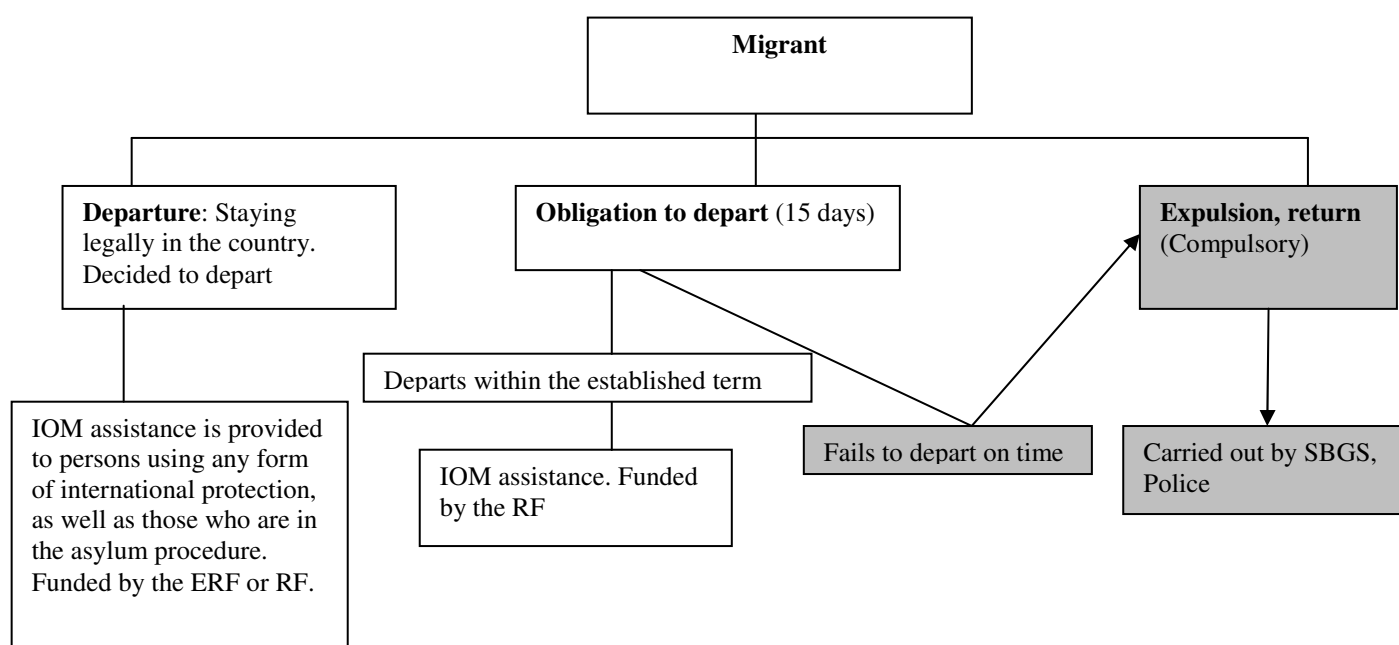
This situation is explained by the fact that prior the annual programme of the Return Fund of 2010, AVR was mostly a project activity. Lithuania has no sustainable AVR mechanism. The launch of the Return Fund's annual programme provides an opportunity for follow-up projects. Therefore, there is now a need for legal regulations regarding voluntary return. Currently, an Agreement is being drafted between the IOM and the Government of Lithuania for the provision of AVR. The Agreement aims to determine the mechanism for Inter-institutional cooperation, competences and other important aspects of the provision of AVR.

Legal regulation of the departure of foreigners from the Republic of Lithuania and AVR

The Law *on the Legal Status of Aliens of the Republic of Lithuania* (provides 4 forms for an alien's departure from the Republic of Lithuania: departure, obligation to depart, expulsion and return.

The implementation of the obligation to depart and alien's expulsion are carried out in accordance with the order of the Minister of the Interior.⁹

Fig. 7. Forms for the Departure of Aliens from the Republic of Lithuania.



⁹ Order No. IV-429 of the Minister of the Interior of December 24, 2004, "On decisions on the obligation of an alien to depart, the alien's expulsion, return or transit through the territory of the Republic of Lithuania and the implementation of the above-mentioned decisions".

The Law provides that an alien must depart from the Republic of Lithuania before the expiry of a visa or temporary residence permit (Article 124). The State does not regulate the departure itself. The alien must depart on his own account, using his own funds. Assistance is not provided to him.

In cases of departure, AVR is only provided to persons who have been granted any form of international protection in Lithuania, i.e. refugee status, subsidiary or temporary protection. Persons who fall into this category live in Lithuania legally. They hold a valid temporary residence permit. If for some reason they decide to depart from the Republic of Lithuania, they can contact and get assistance to return to their country of origin. AVR assistance is also sought by persons who are "in the procedure", but decide to withdraw their application and return to their country of origin or another country to which they are entitled to return.

The obligation to depart is issued to an alien when (s)he has violated the grounds of lawful presence in Lithuania (revoked /expired visa, revoked/expired temporary or permanent residence permit in the Republic of Lithuania, no residence permit although a person should have it; exceeded the allowed time of stay in Lithuania, came with a Schengen visa not entitling them to stay in Lithuania). The obligation to depart provides a time (up to 15 days) during which the alien must independently depart from the Republic of Lithuania. If an alien does not depart within the time limit, his expulsion or return procedure is initiated. The obligation to depart is issued by the State Border Guard Service (including border crossing points) and the Police (including local migration services).

According to the annual programme of the Return Fund of 2010, a foreigner who receives the obligation to depart may apply for AVR. Until 2010, this target group was not given assistance.

Return means the transfer of an alien to his country of origin or a foreign country to which he has the right to depart in accordance with the procedure established by legal acts and upon the decision agreed with that country. In most cases, returns take place under readmission agreements. The law provides that an alien (including an unaccompanied minor) may be returned voluntarily or compulsorily. If an alien has voluntarily agreed, and was returned to the country of origin or a foreign country to which he was entitled to go, he may be exempted from the prohibition to re-enter the Republic of Lithuania (Article 133). Compulsory returnees may be denied re-entry to the Republic of Lithuania for a specified or indefinite period of time.

The decision to prohibit (not to prohibit) an alien to enter the Republic of Lithuania is made by the Migration Department. There are no clear criteria according to which the Migration Department makes its decisions. Each case is handled individually. In practice, there are cases where the documents of an alien who returns voluntarily are stamped marking a prohibition of re-entry to the Republic of Lithuania.

Although the Law provides for voluntary return, this is not a voluntary return in terms of the IOM definition. Voluntary or compulsory returns are carried out by the state. Returnees are escorted, and therefore IOM is absent in such returns and does not provide AVR.

Expulsion means a compulsory transportation or removal of an alien from the Republic of Lithuania in accordance with the procedures established by legal acts. An alien is expelled if he 1) failed to comply with an obligation to depart within a set time period, 2) has entered or stays in the Republic of Lithuania unlawfully, 3) his stay constitutes a threat to national security or public order, and 4) a decision has been made to expel the alien from another state to which the Council Directive 2001/40/EC of 28 May 2001 applies. Decisions on the expulsion of an alien are taken by the Migration Department, which delegates their execution to the State Border Guard or the Police.

Since these actions are compulsory, the IOM does not participate in such expulsions and AVR is not provided.

It is important to note that under the current procedures the Republic of Lithuania, all foreigners are expelled from Lithuania (except for asylum seekers and victims of human trafficking) who came to Lithuania by illegally crossing the EU external border, i.e. came from the Republic of Belarus or Kaliningrad area¹⁰. Under the existing law, the illegal border crossing incurs criminal liability. Such aliens, when they are arrested, are accommodated in the Foreigners Registration Centre or in jail, and their expulsion procedure begins.

Finally, it is important to note that the current arrangements will change with the new version of the *Law on the Legal Status of Aliens* and the transposition of the provisions of the Return Directive. Under the new version of the Law, only three forms of alien departure will remain – departure, obligation to depart and expulsion. It is envisaged that the new wording of the Law will take effect from April 2010.

Political Discussions

Political debate on voluntary return in Lithuania is not relevant. Public discussion and the media still do not distinguish between voluntary departure and expulsion. All departures of migrants are defined by one word - deportation. Lithuania has no widespread belief that voluntary return should be given priority in regards to compulsory expulsions. On the contrary, public pronouncements of the risks of illegal migration often contain far-reaching statements that the state should support its own citizens rather than waste funds for the return of illegals. Often, officials (especially on the border) are unwilling to see the difference between a voluntary return and compulsory expulsion/deportation.

The Lithuanian Government has reserved the voluntary return to the disposition of non-government or international organisations, i.e. to the third sector. The IOM supports the Government's position that the practical implementation of voluntary return must be left to the non-government sector, but points out that the state should contribute to the support of the continuity of voluntary returns. The situation in which voluntary returns are merely project activities, is not good. The state should be concerned about the rapid and voluntary return of foreigners to their countries of origin, because it is a humane process, thereby saving public funds otherwise needed for the housing of migrants and their expulsion in compulsory procedures (usually with an escort).

3.2. The Influence of European Policy, Legislation and Funding

This section provides a brief overview of the EU legislation relating to the return of third country nationals, and its transposition to the Lithuanian national law.

Table 4. Transposition of the EU legislation relating to migrant return.

EU legislation	Transposition to the national law	Responsible institution	Comment
Council Directive on mutual recognition of decisions on the expulsion of third country nationals, 2001/40/EC	Transposed. Amended Articles 113 and 126 of the Law on the Legal Status of aliens.	Foreigners Registration Centre under the SBGS	Art. 113 provides that an alien may be detained when a decision is made to expel the alien from the Republic of Lithuania or another state to which the Council

¹⁰If a foreigner came through an internal EU border (from the Republic of Latvia and the Republic of Poland), (s)he avoids responsibility for an illegal border crossing to the Republic of Lithuania.

			Directive 2001/40/EC of May 28, 2001 applies. Art. 126 provides that an alien may be expelled when a decision is made to expel him from another state to which the Council Directive 2001/40/EC of May 28, 2001 applies.
Council Directive On assistance for transit for the purposes of expulsion by air, 2003/110/EC.	Transposed. Amended Article 134 part 2 of the Law on the Legal Status of aliens. Several requests have already been received and implemented.	The Vilnius Airport border control point is a reference point to be contacted for applications regarding transit assistance.	The transfer of an alien through the territory of the Republic of Lithuania shall be prohibited if: 1) in accordance with national law, a foreigner cannot be returned to the specified country 2) the alien is a suspect, accused, or a convict in accordance with the national law; 3) transit through other countries or admission into the state of destination is impossible; 4) it is necessary to transfer to another airport in Lithuania; 5) the required assistance may be impossible due to practical reasons; 6) the transfer of the alien would constitute a threat to national security, public policy, public health or international relations of the Republic of Lithuania.
Council Decision establishing the criteria for application compensation, and practical arrangements of financial imbalances resulting from the application of Directive 2001/40/EC on the mutual recognition of decisions on the expulsion of third country nationals, 2004/191/EC.	Transposed. Art. 131 of the Law has been amended.	The Foreigners Registration Centre under the SBGS has been appointed as a national information centre.	Has not yet been applied in practice (until 2009).
Council resolution On the organization of joint flights when sending two or more Member States third-country nationals from the territories, who are subject to individual orders of expulsion, 2004/573/EC.	Transposed.	The Police Department and SBGS.	No such flights have been carried out (until the end of 2009).
Council Resolution On the establishment of the European Refugee Fund for the period of 2008-2013, 575/2007/EC.	Transposed.	The Ministry of the Interior. Beneficiaries of support: SBGS, Migration Department, Police Department and the IOM (by tender).	ERF programme in Lithuania for 2008-2013 approved by the European Commission.
Council Directive On common standards and procedures in Member States for returning illegally staying third-country nationals, 2008/115/EC.	Necessary amendments should be submitted to the Government by April 30, 2010.	A working group, consisting of various governmental and non-governmental organizations has been formed. The Migration Department is	According to the project prepared, it is planned to decentralise the decision-making on an alien's return. Under the Directive, there will only remain one document - the return decision, so if the alien does not depart within a specified

		responsible for the work of this group.	period of time, he will be returned by the police or the border authorities without any further decisions. It is expected that this will accelerate the removal procedure. The project also provides for granting the right for non-governmental and international organisations to monitor the expulsion process.
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In addition to previously listed changes to the *Law on the Legal Status of Aliens of the Republic of Lithuania*, the new version of the project:

- provides for a maximum period of detention for the expulsion of an alien (6 months, with the possibility to extend the detention for a further 12-month period in some cases where the alien does not cooperate in order to expel him/her, or the required documents are not received from the alien's state);
- the re-entry ban period is defined, which has not been currently defined (up to a maximum of 5 years, but can be longer, if the alien could pose a serious threat to public security or public order);
- the alien's return to third countries is separated from the alien's obligation to depart from another EU country. According to the Return Directive, Article 6, part 2, when an alien has the right to live or stay in another EU state, (s)he is instructed (by giving him/her a period up to one month) to voluntarily depart to another EU state, and if (s)he does not respect this order, (s)he will be expelled from the Republic of Lithuania compulsorily;
- a "new" group is identified - vulnerable persons whose interests will be particularly taken into account by the public authorities. To date, in accordance with the laws in force, Lithuania has only paid special attention to unaccompanied minors, but after the transposition of the Return Directive, the group of vulnerable foreigners will expand.

It is likely that these changes will contribute to a more systematic and clearly defined compulsory and voluntary return of legal aliens.

4. Overview of Assisted Return Measures

A total of 2 periods of AVR can be distinguished:

- AVR for the mass return of illegal migrants during 1997-2002.
In 1996, the number of illegal migrants in Lithuania had significantly increased. Many of them came to Lithuania from Asian countries in an attempt to reach Western Europe. In 1997, the Lithuanian Government requested the International Organization for Migration to provide assistance to the migrants who were stuck in Lithuania, and to return them to their countries of origin. In 1997-2002 the IOM has organized charter flights to India, Pakistan, Bangladesh and Sri Lanka. During this period the IOM Vilnius office helped 1324 migrants to safely return to their home countries.
- AVR for the return of individual migrants.
Since 2005, AVR was provided under the EU Refugee Fund programmes, and since 2010 - under the annual programmes of the European Return Fund.

Since 2005 the assistance is granted according to the EU projects, and only to those migrants who fall into a project target group. The Government does not support individual voluntary

returns, are therefore AVR can not be provided at all times, because 1) not all migrants wishing to depart fall into the target group and 2) AVR projects are not always available (lack of funding).

The table shows the data on the target groups of migrants who used AVR.

Table 5. Target groups of migrants who have been assisted to return, by year

	2000-2002	2005 ERF	2006 ERF	2007 ERF	2008 ERF	2010 RF
Persons staying illegally in the country, if no decision has been made to expel or return them	X					X
Asylum seekers whose application for asylum was rejected	X	X				X
Asylum seekers in the procedure, namely those who applied for asylum and were waiting for a decision	X	X	X	X	X	X
Persons who have received subsidiary protection and whose temporary residence permit in Lithuania has expired or is nearing expiration	X	X				X
Individuals who use any form of international protection in Lithuania, but decide to return to their country of origin or a transit country	X		X	X	X	X
Vulnerable groups	X					X
Number of those who returned within AVR	255	35	3	12	15	N/A

4.1. AVR mechanism

1. Information stage.

The IOM information on voluntary repatriation is exercised in three directions:

- Informing state servants (Migration Department, Police and Migration Board, border guards) and staff working with asylum seekers and other foreigners. Before beginning a new project, IOM introduces the above mentioned officials to the project objectives, target groups and explains what and how AVR can be used. Since these people work with migrants directly and are well aware of their situation, they may offer migrants who meet the programme criteria to consider AVR.
- Informing the migrants themselves, meetings with them, and answering their questions. According to need, the IOM staff travels to the reception centres for migrants and informs individuals about the programme. Consultations are also available by phone, online, and via the distribution of informational materials.
- Distribution of informational material (posters and informational brochures in various languages) via the Migration Department and immigration services, at the border, in the Foreigners Registration Centre, and through the other non-governmental organizations that provide assistance to migrants (Red Cross and Caritas).

Since 2010, information to migrants has also been planned to be available in migrant day centres, and through religious communities.

2. Advisory stage.

The determination to return to a country of origin is a complex and individual process. First of all, the IOM staff has to ascertain whether a person can take advantage of AVR. This is done by evaluating the person's documents and clarifying the status of his/her stay in Lithuania. During this process, the IOM consults the Migration Department and verifies whether the status of the migrant corresponds to the information available to the Migration Department. If it is found that a person can benefit from the IOM's assistance, the migrant advisory process begins in which the IOM representative in conjunction with the migrant seeks to find opportunities for the migrant, his/her desires and expectations. The IOM staff does not seek to affect a migrant, but to provide him/her with comprehensive information regarding the potential for his/her return. If necessary, the IOM staff may also contact other IOM offices in the country of origin of the migrant and clarify the issues which the IOM Vilnius employee is unable to resolve.

3. Preparing for travel

Preparation for travel is another very important step. In particular, it includes the obtaining of necessary travel documents. The IOM Vilnius office is often contacted by people who do not have valid travel documents, stateless persons, and other cases. An IOM staff member, in collaboration with foreign embassies and relevant Lithuanian authorities, helps a person to obtain the necessary departure documents. Sometimes this process takes a very long time (even up to one year!) until competent foreign authorities provide their answers and the necessary travel documents are obtained. After arranging travel documents, the travel itself is planned: the route and departure date are discussed with the migrant, and tickets are reserved. If necessary, the IOM personnel also help to organize travel in the country of origin, especially if the distance from the airport to the final destination point is significant.

4. Travel arrangements

When planning and executing a trip, the IOM staff often has difficulties in selecting a travel route. Many of the most convenient routes transit through other Schengen Member States. However, if a migrant returns with a single-return travel document or an obligation to depart, (s)he cannot transit through another Schengen member state to avoid his possible withdrawal. It is therefore essential that the migrant immediately travel outside a Schengen country¹¹. After the bankruptcy of Lithuanian Airlines and the sharp reduction of flights, it is sometimes difficult to find a suitable route. The IOM Vilnius office looks for the best option for travel in each case. If necessary, the IOM Vilnius office can also provide transit assistance via other IOM offices.

5. Assistance in the country of origin

Prior to the annual programme of the European Return Fund of 2010, the IOM Vilnius office did not engage in the integration of voluntarily returning migrants to their country of origin. The IOM Vilnius office only provided a small amount of pocket money necessary to meet the basic needs of a migrant upon arrival, and provided essential information about reintegration possibilities in some countries (using the IOM office network). Since the launch of the annual programme of the Return Fund in 2010, the IOM Vilnius Office will also pursue reintegration projects in countries of origin. In 2010, two countries – Moldova and Georgia – are planned.

Prices

The comparison of price levels of AVR and compulsory removals in Lithuania is not informative, because the comparison is only possible within the same countries. In the case of Lithuania, the countries of compulsory expulsion and voluntary return are very different. In addition, the price effect only occurs at sufficiently large numbers of returns. Meanwhile, when returns were carried

¹¹No such problems occurred prior the Lithuanian access to the Schengen area.

out according to the requirements of the Refugee Fund, the target group had been much reduced, thereby increasing the price of one migrant's return. Secondly, compulsory expulsions are carried out mainly in cases involving the neighbouring countries (Belarus, Ukraine and Moldova). Often, persons illegally staying in Lithuania are only escorted to the border. Meanwhile, AVR, as a rule, is granted to "complex" cases, i.e. when a person travels to a distant country (Nigeria, Pakistan, Vietnam, Russia/Chechnya) or is in a vulnerable group. Thirdly, compulsory expulsions are carried out by public officials who receive their salaries from the state budget, which is not included in the expulsion price. Meanwhile, AVR is provided by IOM employees who are paid from the project funds. Therefore, the average AVR price can sometimes be higher. However, as demonstrated by the experience of other countries, at higher return figures, IOM assistance costs are less than state-run expulsions.

4.2. Motives for Assisted Return

AVR is provided to migrants who have found themselves in a difficult situation and have no other opportunities except to return to their countries of origin or a transit country.

From a state's perspective, each state has an interest in the voluntary return of third country nationals before they become illegal in the state and must be expelled. The European immigration and asylum pact¹² calls on the EU Member States to ensure that illegal immigrants return to their countries of origin. The Pact provides that each Member State shall ensure that the return of illegal nationals is effectively applied in accordance with the laws, respecting the dignity of the persons concerned, giving priority to voluntary return, and to accept decisions on returns made by other Member States.

One can distinguish several aspects of the state interest in AVR operations:

- *Speed.* The voluntary return process is faster than compulsory expulsion.
- *Reduction of the load to the state system.* Facilitation of voluntary returns reduces the load on the state's asylum and expulsion system and officials. In cases of AVR assistance and opportunities, more migrants return over a given period of time (the period of the obligation to depart). When there is no such possibility, migrants having no means to return often violate the term of the obligation to depart "with no bad intent, simply because he had no other choice", and automatically fall into the compulsory expulsion group of persons. The same applies to asylum seekers. Many of asylum applicants who know that asylum will not be granted to them can voluntarily decide to return to their country of origin and thereby reduce the pressure on the asylum system.
- *Flexibility.* The IOM, in providing AVR responds flexibly to the needs of migrants and works to ensure that these needs are met. The IOM has an extensive network of offices around the world and can provide assistance in various countries of origin, transit and destination countries.
- *Sustainability.* As a migrant returns voluntarily, (s)he is given information about re-integration possibilities/or his/her reintegration in the country of origin is even carried out. This increases the likelihood that the migrant will remain in his/her country and will not seek to re-enter the EU territory illegally.
- *Price.* With an extensive network and over 20 years of experience in returns, the IOM can provide a package of services at the best price.

¹² 13440/08 ASIM 72

AVR is appreciated by the migrants for the following aspects:

- *A humane process, with respect for human rights and confidentiality.* The IOM provides assistance to return strictly in accordance with its internal rules, which attach great importance to a migrant's rights. The IOM only provides voluntary assistance with the clear self-determination of the migrant. In taking advantage of AVR, a person returns to their country with dignity. Any information on migrants is kept confidential.
- *A full service "package".* The IOM provides comprehensive assistance to a migrant returning to his/her country of origin: consultations, assistance in obtaining the necessary travel documents, possibility of contact with the country of origin, travel tickets, arrangements for local travel, possibilities for departure, transit and arrival assistance, and a small amount of money to cover the initial expenses.
- *A fast process.* The IOM provides assistance quickly. If a migrant has the necessary documents, there are no lengthy bureaucratic procedures.
- *Flexibility.* The IOM can respond flexibly to the needs of a migrant in planning a trip. If necessary, the IOM can provide escorts and other security measures necessary for the migrant.
- *Security.* In some countries, compulsory expelled migrants are punished. When using AVR, migrants return as ordinary citizens and can thus avoid sanctions or even arrest in their country of origin.
- *Assistance in the country of origin.* In order to ensure the sustainability of returns, the IOM Vilnius office from 2010 is also engaged in reintegration programmes in the countries of origin. As shown by the practice of other countries, this greatly facilitates a migrant's return and reintegration in their country.

Table 6. Cash incentives for migrants who are returning via the use of AVR

Year/monetary incentive	1997-2002	2005 ERF	2006 ERF	2007 ERF	2008 ERF	2009
Monetary incentive	30 USD	30 USD	30 USD	70 EUR	300 EUR	-

Source: IOM Vilnius office data

4.3. Obstacles to Assisted Return

The provision of AVR encounters difficulties. They can be divided into the political, institutional, organizational and personal. Below we discuss these challenges and provide a brief overview of how they are addressed.

Political/administrative:

- *Narrowness of target groups.* In 2005-2008, AVR was granted via the EU Refugee Fund which provided that AVR can only be provided to persons who enjoy any form of international protection in Lithuania or are in the procedure, i.e. awaiting a final decision. For example, in 2007, the Foreigners Registration Centre accommodated 219 persons, and obligations to depart were received by 898 persons. 147 persons were expelled and only 12 people benefited from AVR. Others were simply not covered by the target group. From the Lithuanian perspective, most people who want to make use of AVR are those whose basis for legal residence in Lithuania has expired and who cannot afford to return to their home country at their own expense. These people were not included in the target group prior to the annual programme of the Return Fund, and could not benefit from the assistance.

- *Funding instability.* AVR funding on a project base is not constant. Implementation of at EU level adopted programmes takes time, resulting in periods when assistance is not available, because necessary agreements are not signed. In other countries, such gaps are government-financed, but the Lithuanian Government has not planned any budget for this. There were instances when information campaigns were organised but the project ended and assistance was no longer provided. This makes the work particularly difficult and compromises the migrants' trust. Such "grey periods" should be financed by the State itself, which is interested in the departure of illegally staying migrants.
- *Unregulated institutional cooperation between the institutions.* Lithuania has no political document which would clearly define the voluntary return cases where AVR may be provided and when not, and what authorities should be involved and how they should inform each other and so on. An agreement on voluntary returns is also required because it is important to ensure the migrants' rights during a voluntary return, and to clearly distinguish between the competences of public and non-governmental institutions. Currently, an agreement between the IOM and the Government of the Republic of Lithuania is being drafted.
- *The Law on the Legal Status of Aliens does not encourage migrants to return voluntarily.* Other EU Member States promote the incentive to return voluntarily and have statutory provisions where in cases concerning the withdrawal of an application for asylum, the state provides assistance for the voluntary return (the Netherlands, Finland, and Portugal). In this way, the states seek to save funds required for the processing of asylum applications (especially unreasonable). In Lithuania voluntary return is not encouraged.
- *Identification of voluntary programmes with deportation.* In Lithuania, voluntary return is still associated with deportations in the public domain. This leads to the unfounded fears of migrants. This approach complicates the organization of returns.
- *Institutional barriers* are mainly associated with obtaining *travel documents*. The IOM is often contacted by migrants who sought asylum in Lithuania, and subsequently decided to return back to their country of origin, but do not have necessary return documentation. Such persons cannot contact their embassy for the issue of travel documents if they are still in an asylum procedure. On the other hand, if they withdraw an application for asylum, they automatically become illegal. In such situations, the IOM office mediates and contacts embassies regarding the necessary travel documents. This process is sometimes difficult and time consuming because of the need to identify the migrant, to determine whether he/she is included in the population register in their country of origin and the like. Lithuania often does not have a representative embassy of the migrants' home country, and this process is further extended.

The IOM Vilnius Office staff distinguishes Russian citizens/persons of the Chechen nationality who contact the IOM for AVR, but have no necessary documents. The Embassy of the Russian Federation is not always willing to cooperate promptly and issue the necessary documents. Document management sometimes takes a long time. It is worth stressing that until 2009 the Chechens constituted the vast majority of persons who applied for asylum in Lithuania and a large part of those who wished to benefit from AVR.

- A similar problem occurs with *stateless persons*. After the collapse of the Soviet Union, the numbers of such people without nationality, or without specific dependency on a certain country are still high. The IOM makes every effort to "discover" the country of origin of the stateless migrant, but this search is not always successful. There are cases in which the IOM cannot help these people, but provides them with information about their ability to stay in Lithuania.
- Major *organizational barriers* are related to the *organisation of the trip*. One key problem is the organization of transit through other Schengen countries for returning migrants. A

migrant wishing to depart must have a valid visa or other appropriate travel document. The IOM has experienced many cases of migrants wishing to return voluntarily, whose visa have expired and who has the obligation to depart. Such a person under the provisions of the European Return Fund may benefit from AVR, but (s)he must leave to a non-Schengen country. This situation is aggravated by the fact that with the bankruptcy of the Lithuanian airline, there has been a significant reduction of flights to non-Schengen countries. Therefore, when organizing a trip, the IOM staff member has to take all these factors into account. Currently, the obligation to depart issued by the Republic of Lithuania is not recognized by other Member States. A common form of the obligation to depart should be addressed at the EU level.

Personal difficulties are usually related to a migrant's attitudes, fears and so on. The IOM Vilnius office faces the following key challenges arising from the attitudes of the migrants:

- *Fear that in the country of origin (s)he will be prosecuted/persecuted.* Many migrants who apply to the IOM for AVR are afraid that they may be punished in their country of origin for leaving and asking assistance in another country. Each migrant is informed that the IOM does not inform the host country of returning persons and treats all information provided by the migrant confidentially. Therefore, a migrant returning voluntarily will not be transferred to public institutions.
- *Fear that the country of origin is unsafe.* The IOM only provides AVR to those who go to safe countries. If any country to which a person wants to return is found to be unsafe, the IOM does not provide assistance because it is safer for the migrant to remain where (s)he is.
- *Ignorance of changes in the country of origin.* The IOM Vilnius office has experienced cases where a migrant returns to his/her country of origin after a very long time and he/she is not sure anymore of the actual situation in his/her country of origin, and thus is afraid to return. The IOM enables the migrant to contact their home country and find out about the changes. If necessary, IOM offices in the migrants' countries of origin may be involved.
- *Plans of migrants are changing.* Migrant plans and motivations for return are changing. There are cases where after the assessment of all the problems relating to return, migrants refused the IOM assistance. Sometimes assistance is rejected due to changes in family circumstances, or a very long time for paperwork, etc.
- *Failure to carry out mandatory military service.* Some countries (such as Armenia) do not issue a travel document if a person has not performed military service duty and does not agree to perform it or to pay the fine.

4.4. Organisation of Assisted Return Measures

Consultation of migrants is the information process during which a migrant decides to return voluntarily to their country of origin or decides otherwise. The main purpose of the consultation is to provide a migrant with any information, to explain the opportunities of his/her departure and stay in the state, to find out their opinion of the return, which fears and questions the migrant has, etc. This is to enable a migrant to make a decision that is based on relevant information considered by the migrant.

Consulting of migrants, who wish to return voluntarily to their country of origin, is carried out by the IOM Vilnius office staff. This is a person with a social/humanities background. The migrant's consultation takes place throughout the entire process. The number of consultations depends on the complexity of the case and the personal characteristics of the migrant.

The IOM Vilnius Office carries out consultations of migrants in the IOM Vilnius office facilities by phone, internet and, where necessary, by travelling to various institutions/organizations (Refugee Reception Centre, which accommodates person granted international protection or Foreigners' Registration Centre, which accommodates persons awaiting decisions on asylum and other third country nationals who are staying illegally in Lithuania, including other organizations working with migrants) and in migrant day centres within religious communities.

Table 7. Numbers of migrants advised and returnees.

Year	2005	2006	2007	2008
Migrants advised	39	11	69	97
Number of returnees	35	3	12	15

Source: IOM Vilnius office data

Determination to return to the country of origin is a complex and individual process. First of all, the IOM staff has to ascertain whether a person can take advantage of AVR. This is done by evaluating the person's documents and clarifying the status of his stay in Lithuania. If it is found that a person can benefit from the IOM's assistance, the migrant advisory process begins in which the IOM representative in conjunction with the migrant seeks to find opportunities for the migrant, including his/her desires and fears. The IOM worker aims are not to affect a migrant worker, but to provide him with comprehensive information concerning the return potential.

5. Re-Integration and Sustainability of Returns

Until 2009, Lithuania did not have programmes for the reintegration of foreigners who departed under AVR in the country of origin. In order to ensure the sustainability of returns, the IOM Vilnius office from the beginning of 2010 has not only started to provide assistance for return, but to also carry out the first pilot reintegration projects in the countries of origin. By means of these projects, the IOM not only aims to address the consequences of illegal migration, but also contributes in addressing the reasons for the failed emigration, and attempts to create a system within migrants' own country for his/her integration.

So far, Lithuania has only had prior experience in integration assistance to victims of trafficking who returned from abroad. This assistance was carried out in collaboration with various organizations in foreign countries and in Lithuania. In 2010, after the launch of the European Return Fund programme, Lithuania will start first pilot reintegration projects of migrants returning with AVR. The first pilot reintegration assistance projects will be implemented in Georgia and Moldova. Although the biggest share of migrants in Lithuania wish to return to the Russian Federation/Chechen Republic, there have been technical difficulties in organizing assistance to this region, so the first pilot projects are scheduled in the countries that are second by the numbers of returnees, normally Georgia and Moldova.

Reintegration assistance of several types will be given to migrants applying for assistance depending on the needs in each individual case:

- Studies (training, refresher and retraining courses, other training)

- Work (search for job opportunities, possible compensation for a portion of salary in the first months of employment)
- Housing (assistance for covering apartment rental costs)
- Business (financing for the start-up of a small business according to a coordinated business plan, acquisition of necessary tools)
- Children (child care assistance)
- Health (required medical expenses)
- Other.

There is currently no definition as to which migrants will receive reintegration assistance. Clear criteria should be formulated following a best practice analysis and the identification of individuals who will be provided with reintegration assistance.

During the implementation of the multi-annual Return Fund programme, it is intended that the reintegration projects become more complex and that a sustainable reintegration programme will be created. In 2010, an evaluation of the implemented reintegration projects is planned. The further development of reintegration projects in the countries from which the highest numbers of migrants come to Lithuania will be based on that experience.

During 2010-2011, a feasibility study in the new countries to which a large number of migrants will be returned is anticipated to guide the implementation of the first reintegration projects there. It will also involve the development of a database on foreigners who have received reintegration assistance in order to avoid repeated assistance. This database would also allow using the help of those who have already returned to their home country by incorporating them into the reintegration process of other persons.

It is believed that the reintegration assistance will reduce the "pressure" of returnees to re-emigrate, and protect migrants from unsuccessful migration. Reintegration assistance is a long term and sustainable response to the main challenges of migration.

6. Conclusions

1. AVR programmes are useful for both countries and migrants. They are useful for countries of destination because:

- They do not impede the asylum and expulsion systems;
- There is no need to maintain/support the migrants who wish to depart voluntarily;
- Migrants depart fast, and on a voluntary basis – the State is not risking aggravating its relations with the migrants' home countries;
- Voluntary return operations are cheaper than compulsory expulsions;

For migrants, the opportunity to return voluntarily is useful because:

- it enables a safe and dignified return
- individual needs are taken into account
- root causes of emigration are solved (via re-integration projects)
- the migrant is included in the return process formation

In Lithuanian cases, the small number of people returning voluntarily can be explained by the narrow scope of target groups and the insufficient level of information about the AVR mechanism. Therefore, it is necessary to raise awareness of the possibility of AVR. Such an opportunity will arise after initiating the annual programmes of the Return Fund, which provide

continuous funding for 5 years of AVR.

2. It is very important to ensure the continuity of voluntary return projects and expand the target groups so that they correspond to each country's specifics. Extension of the target groups does not mean that they must include everyone who wishes to return. It is also very important to ensure that the assistance for voluntarily return is not abused. Periods when there are no project funds for voluntary return projects should be covered by the budget, because it is the only way to create a stable, effective and credible voluntary return plan for migrants.

The State should contribute to the continuity of AVR, therefore it is necessary to provide public funds in cases where the number of those willing to depart grows, and when the project financing is over.

3. Although AVR in Lithuania has been provided for 10 years, it is not legally regulated. This absence of regulation can lead to various incorrect interpretations where different institutions treat the same return differently (voluntary or not). One of the legal uncertainties is due to the fact that the public is still unable to distinguish the difference between voluntary return and compulsory deportation. Therefore, the initiative to legally regulate the key issues relating to voluntary return in a joint agreement between the IOM and the Ministry of Internal Affairs of the Republic of Lithuania is welcome.
4. Numerous problems are faced due to the provision of AVR:
 - The processing of documents needed for travel (the workflow takes a very long time, especially when stateless persons want to return; not all consular offices promptly cooperate, etc.).
 - Arranging for a trip (there is no possibility for voluntarily returning persons to take connecting flights through other Schengen airports because no general document of the obligation to depart has been approved at the EU level)
 - Arranging departure for particularly vulnerable groups (patients, people with disabilities, and women with children)

Close cooperation is needed when organising the returns of foreigners and providing AVR among all institutions within the state, and between the country of origin and the country of destination. Action must be taken at the EU level (on the approval of a general document regarding the obligation to depart).

5. From 2010 onwards, Lithuania will begin to provide not only AVR, but to also carry out pilot projects for re-integration in Moldova and Georgia. This will ensure the sustainability of returns, because the re-integration projects seek to solve the root causes of emigration.
6. It is important to note that it is necessary to carry out the monitoring of voluntary return projects. Countries, causes and categories of migrants in need of assistance are changing. It is necessary to exchange experiences and information with other countries and strengthen cooperation with the countries of origin. This will help to organise lasting returns, better accommodate the needs of the migrant and his/her home country, and reduce barriers to return.
7. It is not only necessary to raise awareness of AVR among migrants, but also in the public domain. This should help prevent the identification of returns as deportations and other unreasonable fears, which are common among migrants.

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Websites:

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2. <http://www.iom.int>
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5. <http://www.pasienis.lt>
6. <http://www.unhcr.lt>

Annex 1**ASSISTED VOLUNTARY RETURN FORM****Personal Data**

Family Name _____ name _____ (family)	First Name _____ (given)	Middle name _____ (if applicable)
Date of Birth _____ Return _____ (day/month/year)	Male / Female (circle one)	Country of Return _____
Place of Birth _____ _____ city	Nationality _____ country__	
Marital Status: Single / Married / Divorced / Widow _____ (circle one)	Dependant family members _____ (number)	
Address in Lithuania: _____ _____		
Telephone no. _____		

Legal Status in Lithuania (check appropriate box)

<input type="checkbox"/> Refugee as defined by 1951 Geneva Convention relating to the Status of Refugees. Refugee status obtained: _____ (day/month/year)			
<input type="checkbox"/> Other form of international protection granted. SUBSIDIARY / TEMPORARY (circle one) Residence permit valid until: _____ (day/month/year)			
<input type="checkbox"/> Applied for one of the forms of protection. Please specify: <input type="checkbox"/> Asylum application pending <input type="checkbox"/> Asylum application refused <input type="checkbox"/> Asylum appeal pending <input type="checkbox"/> Asylum appeal dismissed <input type="checkbox"/> Other (please specify) _____			
<input type="checkbox"/> Visa		Type: _____	Valid until: _____
<input type="checkbox"/> Residence permit	Number: _____	Date & place of issue: _____	Valid until: _____

<input type="checkbox"/> Visa-free regime. Length of stay in the European Union during the last 6 months:		
<input type="checkbox"/> Obligation to depart Lithuania issued? (circle one) YES NO	If yes, date & place of issue:	Obligated to depart before (date):

Health Status (required to determine whether special assistance should be provided)

Do you have any disabilities? If yes, please specify	
Do you have any physical or mental health problems? If yes, please specify	
Do you need any special assistance during your travel? If yes, please specify	
Are you pregnant?	
Have you had any injuries recently? If yes, please specify	

Transportation details (route to Lithuania)

Country of departure, transit countries, means of transport used:	Date of arrival:

Documentation & visas**Passport available? YES or NO**

Document	Number	Date & place of issue	Valid until
Passport			
Travel document			
<i>Documents, allowing to travel / stay in other countries (valid visas, residence permits)</i>			

Family members returning with applicant (a separate application form must be filled in for each returnee)

Family name	First name	Relationship	Male/ Female	Date of birth day/month/year	Nationality

Relatives in home country (fill in *only* if you wish IOM to inform them about your return)

Name	Relationship	Contact Address	Telephone No.

Travel information

Final destination in the country of return (please state full address)
Nearest airport or railway station:
Date you are ready to travel (day/month/year)
Do you need IOM transit assistance?
Should you wish to avoid any countries of transit for safety reasons, please specify:
Do you need IOM assistance upon arrival?

Language skills

Mother tongue:	
Other languages you can communicate in:	

Agreement

<ul style="list-style-type: none"> • I agree that I wish to return to _____ on my own free will. • All terms and conditions of participating in Assisted Voluntary Return Programme have been explained to me and by receiving return assistance from IOM I agree with them. • I agree that should I misuse this programme, I will reimburse all the costs incurred. • I understand that IOM assists me once. In case I arrive to Lithuania, IOM voluntary return assistance will not be available. • I certify that the above information is true to the best of my knowledge, and I understand that if I make a false statement in signing this form, the assistance provided by IOM can be terminated at any time. <p>_____ (Principle Applicant signature) _____ (Spouse's signature)</p> <p>_____ (Place and date)</p>	<p>Place of stamp</p> <p>_____ (Name and Signature of Interviewer)</p> <p>_____ (Contact telephone number)</p> <p>_____ (Fax Number)</p> <p>_____ (Place and Date)</p>
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Annex 2

The Republic of Lithuania signed readmission agreements with:

The Republic of Estonia (on 30 June 1995)
The Republic of Latvia (on 30 June 1995)
The Republic of Slovenia (on 06 May 1996)
The Republic of Ukraine (on 23 September 1996)
The Swiss Confederation (on 26 September 1996)
The Kingdom of Sweden (on 10 February 1997)
The Republic of Finland (on 18 March 1997)
The Republic of Iceland (on 04 April 1997)
The Republic of Italy (on 20 May 1997)
The Republic of Croatia (on 28 May 1998)
The Kingdom of Spain (on 18 November 1998)
The Republic of Austria (on 09 December 1998)
The Republic of Poland (on 13 July 1998)
The Republic of France (on 04 December 1998)
The Republic of Germany (on 16 December 1998)
The Republic of Portugal (on 11 February 1999)
The Russian Federation (on 12 May 2003)
The Republic of Moldova (on 06 December 2001)
The Kingdom of Belgium (on 09 June 1999)
The Grand Duchy of Luxembourg (on 09 June 1999)
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