First instance determination - Lithuania

Overview of first instance procedures

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Relevant EU legislation

Lithuania is bound by the recast Asylum Procedures Directive (APD/APR), the recast Reception Conditions Directive and the Dublin III Regulation (AMMR) and has transposed their provisions through the Law on the Legal Status of Foreigners .

National legislation

The asylum procedure is detailed in the Law on the Legal Status of Foreigners:

- regular procedure for asylum applications in Article 76;
- admissibility procedure in Article 77;
- accelerated procedure in Article 76(4);
- border procedure in Article 140/8(3) and Article 5(3/1);
- appeal procedure in 138(1-2), 140/25;
- timeframe in Article 77(2), 81(1);

Description of the procedure for granting and withdrawing asylum in the Republic of Lithuania provides relevant details on the procedural steps

Competent authority and other stakeholders

National authorities: Migration Department (*Migracijos Departamentas* – 'MD') operated under the Ministry of the Interior.

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The Migration Department is responsible for first instance procedures such as handling the lodging of an asylum application, conducting personal interviews. The Migration Department is also responsible for compiling country of origin information, evidence assessment and making decisions on asylum applications, including implicit and explicit withdrawals. The Migration Department also runs a Dublin Unit. The MD coordinates and implements the transfer of foreigners who are in need of asylum from the European Union or third countries. During the asylum procedure, asylum seekers have a right to use legal and translation services free of charge. The provision of legal services to asylum seekers is organised and coordinated by the Reception and Integration Agency, translation services: 1) at the time of receipt of the asylum application - Reception and Integration Agency, during the examination of the asylum application - by the Migration Department.

The organisational chart is available on the website.

Staff: Information is not available

Other actors:

- State Border Guard Service (SBGS) is involved in the registration of applications
- State Security Department provides an assessment of the asylum seeker's threat to state security
- Police Department and SBGS provide an assessment of the asylum seeker's threat to public order or society
- If necessary, inquiries may be sent to other state institutions of the Republic of Lithuania
- Red Cross is involved in the provision of legal assistance
- A lawyer may be present to assist the applicant in the procedure
- Interpretation services are provided by an external company.

Types of procedures and case processing

The Law on the Legal Status of Foreigners foresees:

- regular procedure for asylum applications (Article 76);
- admissibility procedure (Article 77);
- accelerated procedure (Article 76(4));
- border procedure (Article 140/8(3) and Article 5(3/1));

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Within 3 days from the registration of the application, the Migration Department must decide on the type of procedure which will be applicable. During the situation of emergency this timeframe is increased to 10 days.

Applications lodged by unaccompanied minors are prioritised.

Time limit for a decision and length of the procedure

Time limits for taking a decision in:

1. The regular procedure - as soon as possible and no later than 6 months from the date of the registration. In the event of state of war declaration, a state of emergency or extreme situation, the Migration Department aims to take an asylum decision as fast as possible.
2. Special procedures:

- Admissibility procedure: The Migration Department has 3 business days from the lodging of the application to decide on its admissibility.
- Accelerated procedure: The application for asylum must be dealt with within 10 working days which is the time limit to examine an application under the accelerated procedure following a decision of the Migration Department.
- Border procedure: Decision regarding entrance has to be issued by the Migration department within 3 days from the registration of the asylum application. MD decides within 3 days from the lodging of the application on the admissibility and on the type of procedure. In situation of declared emergency this timeframe increased to 10 days.
- Subsequent application: 10 working days (accelerated procedure) in case the applicant has lodged a subsequent application for asylum where no relevant new information or data have emerged or have been presented which significantly increase the likelihood that the asylum applicant may meet the refugee criteria.

Lithuania does not provide a legal basis for extending time limits. In cases where the decision is not taken within the timeframes, the applicant is informed about the expected term of examination of the case.

Measures to enforce the legal time limit for processing an application:
There are no measures to enforce legal time limits foreseen in the legislation.

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Penalty payment for exceeding processing time: there are no measures to enforce legal time limit foreseen in the legislation.

Prioritisation policies: Applications lodged by unaccompanied minors are prioritised. Also, in case of emergency/crisis situation, applications for asylum lodged by unaccompanied minor and asylum applicants who have been subjected to torture, rape or other serious psychological, physical or sexual violence shall be examined by way of priority (Article 140/14(2)).

Quality assurance of first instance procedures

Who: Not applicable.

Methods/criteria: while there are no mechanisms in place, UNHCR and EUAA may provide information and organise trainings on the matter.

Frequency: Not applicable.

Interinstitutional cooperation

There is no formal mechanism in place. Organisations involved in asylum procedures exchange information, meet, address various issues when necessary and in various formats.

Regular asylum procedure at first instance

Legal basis

The regular asylum procedure is provided in Article 76 (grounds) and Article 81 (timeframe) of the Law on the Legal Status of Foreigners.

Article 22 states that asylum applicants shall have the right to remain in the territory of the Republic of Lithuania pending a decision concerning their legal status.

Competent authority and stakeholders

The Migration Department is the only institution in Lithuania authorized to examine asylum applications and is the first instance in the asylum procedure.

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No other institution in Lithuania performs this function.

Personal interview

In Lithuania, applicants are notified of their personal interview through a formal invitation, which is sent in advance. This invitation is bilingual, written in both English and the applicant’s native language or a language they understand. The invitation contains important details such as the venue, date, and time of the interview, along with the applicant's obligation to cooperate with the Migration Department. If the applicant cannot attend, they are required to inform the Migration Department no later than 24 hours in advance. If they fail to attend without a valid reason, the authorities may proceed with a decision based on the evidence in the applicant's file, without hearing their oral testimony. Upon receiving the invitation, the applicant must return it, signed with a statement either consenting or refusing to attend, and indicating whether they would like a legal representative present.

The interview typically takes place at the Migration Department’s premises, although alternative locations may be used in exceptional circumstances, such as when the applicant is detained or has health issues. In such cases, interviews may be conducted at the Foreigner’s Registration Center or remotely via video conference. Before the interview begins, applicants are informed of its purpose and the confidentiality principles that govern the process. They are also reminded of their rights and obligations. Additionally, applicants are made aware that the interview will be recorded, either by audio or video, and that they have the right to clarify or amend the interview report if needed. At the end of the interview, applicants are informed about the next steps in the process and the possible outcomes of their application for international protection.

Assessment of an application

Having collected the data related to the application for asylum, an authorised civil servant of the Migration Department conducts an investigation, the purpose of which is to determine whether the asylum seeker meets the criteria for granting refugee status or subsidiary protection. Such an investigation is carried out by examining each case individually, objectively and impartially, taking into account: accurate and up-to-date information on the asylum seeker’s country of origin, including the laws and other legal acts of the country of origin and the

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manner in which they are applied; the statements made by the asylum seeker and all documents in his possession, including information on whether he has suffered or may suffer persecution, as well as information on the asylum seeker's previous applications for asylum, travel routes, travel documents and the reasons for submitting the application for asylum; the individual situation and personal circumstances of the asylum seeker, including such factors as his or her biographical facts and those of his or her relatives, gender and age, as well as the situation of persons in a similar situation in the asylum seeker's country of origin.

When conducting the investigation, the authorised civil servant of the Migration Department, based on all the evidence collected during the investigation, establishes essential facts that have an impact on the assessment of whether the asylum seeker meets the established criteria for granting asylum. The reliability of the factual data provided by the asylum seeker, if it is not confirmed by material evidence, documents and other physical evidence, is assessed taking into account whether the asylum seeker's account is sufficiently detailed and specific; whether the data provided orally and in writing by the asylum seeker are consistent; whether the data provided by the asylum seeker do not contradict the information provided by his family members or other witnesses; whether the data provided by the asylum seeker do not contradict the available information about his country of origin and generally known facts. The validity of the assumptions made by the asylum seeker about the alleged causes, circumstances or consequences of certain events or episodes, as well as about the causal or evidentiary links between certain events or episodes, shall be assessed in the context of all other evidence collected and facts established during the investigation. If the asylum seeker's account is essentially consistent and compatible with other evidence collected and facts established, certain doubts about the veracity of the factual circumstances indicated by the asylum seeker shall not prevent his account from being considered reliable evidence.

Scope and outcomes of a decision

Every application is examined individually, a thorough, independent and impartial investigation is carried out. The information provided by the asylum seeker is verified and additional information is collected on the circumstances on which the application is based, an interview is conducted, and other state institutions are

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consulted. First, the criteria for refugee status are assessed, and in their absence, subsidiary protection status is assessed.

Possible outcomes:

- Positive decision to grant asylum (refugee status or subsidiary protection)
- Negative decision - a decision not to grant asylum and to return/expel the foreigner.

Withdrawal of an application

Competent authority to withdraw an application

The Migration Department (*Migracijos Departamentas*) under the Ministry of the Interior is responsible

Implicit withdrawal

Grounds for implicit withdrawal: According Article 85, the examination of an asylum applicant's asylum application is discontinued in case:

- 9 months have lapsed from the day of taking the decision to suspend the examination of the asylum applicant's asylum application;
- the asylum applicant dies, except in cases where he has lodged an asylum application on behalf of his minor family members.
- the asylum applicant abandons without permission the State Border Guard Service, the Refugee Reception Center or another accommodation facility designated in accordance with the procedure established by the Government or an institution authorized by it or fails to return to these accommodation facilities for more than 72 hours;
- of an asylum applicant who has been permitted to reside in the place of his choice that it is not possible to contact for 72 hours.

Consequences of implicit withdrawal: Suspension of examination of an asylum application entails the suspension of provision of services and assistance to the applicant. This shall be resumed after the disappearance of the circumstances on the grounds of which it was suspended.

The examination of a discontinued asylum application is resumed if the applicant has returned to the Foreigners' Registration Centre or the Refugee Reception

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Centre, or if a possibility of contacting the applicant has emerged, and 9 months have not elapsed from the decision to suspend the examination of the asylum application.

The applicant shall, without delay, submit a request to resume the examination of his/her asylum application and detailed written description of the motives of his acts or omissions.

Appeal against a decision to discontinue the examination due to an implicit withdrawal:

Articles 138(1) and 140(supra 1) of Law on the Legal Status of Foreigners (a third-country national is considered a threat to national security, public order or public health)

The Regional Administrative Court | Regionų Administracinis Teismas is the competent authority for appeals. Applicants have a time limit to lodge an appeal of 14 days starting from the service of the decision

The appeal has an automatic suspensive effect, except when the residence permit has been withdrawn due to the third-country national being considered as a threat to national security, public policy or public health (Article 50(1)(14)) or was convicted by a final judgment of a grave crime or is considered as a danger to the community (point 2 or 21 of Article 54(1) Law on the Legal Status of Foreigners).

Legal assistance and interpretation services are available as in the regular procedure.

The time limit to decide is set to 2 months from the admission of the appeal.

The outcome may confirm or annul the decision. A decision of the first instance court may be appealed to the Supreme Administrative Court within 14 days from the publication of the decision.

Explicit withdrawal

Grounds for explicit withdrawal: According to Article 85, the examination of an asylum applicant’s asylum application is terminated in case the asylum applicant expresses in writing a wish to discontinue the examination of the application.

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Consequences of explicit withdrawal: Suspension of examination of an asylum application entails the suspension of provision of services and assistance to the applicant. This shall be resumed after the disappearance of the circumstances on the grounds of which it was suspended.

The applicant shall, before 9 months from the decision to suspend the examination of the asylum application, submit a request to resume the examination of his/her asylum application and detailed written description of the reasons of his/her decision

An examination of the application for asylum may only be renewed once.

Appeal against a decision to discontinue the examination due to an explicit withdrawal:

Articles 138(1) and 140(supra 1) of Law on the Legal Status of Foreigners (a third-country national is considered a threat to national security, public order or public health)

The Regional Administrative Court | Regionų Administracinis Teismas is the competent authority for appeals. Applicants have a time limit to lodge an appeal of 14 days starting from the service of the decision

The appeal has an automatic suspensive effect, except when the residence permit has been withdrawn due to the third-country national being considered as a threat to national security, public policy or public health (Article 50(1)(14)) or was convicted by a final judgment of a grave crime or is considered as a danger to the community (point 2 or 21 of Article 54(1) Law on the Legal Status of Foreigners).

Legal assistance and interpretation services are available as in the regular procedure.

The time limit to decide is set to 2 months from the admission of the appeal.

The outcome may confirm or annul the decision. A decision of the first instance court may be appealed to the Supreme Administrative Court within 14 days from the publication of the decision.

Personal interview

Competent authority: Interviewers

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The first (or an initial) interview is conducted by a SBGS officer or by a civil servant from territorial division of the Migration department, depending on where an application was lodged.

The second interview (on the merits of the application) is conducted by a civil servant from Asylum division of the Migration Department.

Requirements for the job in the Division are laid out in publicly available job descriptions. The candidates are requires to:

- have a higher university education with at least a bachelor's degree or an equivalent of it
- know English or Russian at the level of at least B1
- comply with the requirements set out in legal acts, when issuing a permit to work with or access classified information, marked as 'Restricted Use';

Appropriate qualifications are legally required.

Special procedural guarantees during the interview

Special procedural guarantees are foreseen for applicants with vulnerabilities or special needs. These vulnerabilities are not directly identified during the first asylum interview itself. Instead, an initial vulnerability assessment is conducted immediately after the interview. This two-step process (first the interview, followed by the vulnerability assessment) is mandatory and must be completed before any decision is made regarding the applicable procedure.

During the vulnerability assessment, the authorities check for specific indicators, such as:

- Whether the applicant has been involved in human trafficking, smuggling, or recruiting.
- Whether the applicant has been detained or subjected to any physical or psychological violence.
- Whether the applicant has been exploited or had their identity documents seized.

If the applicant has any health conditions, both physical and psychological.

Additionally, for minors or unaccompanied minors (UAMs), a legal representative or temporary guardian must be present during the interview. The applicant's

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right to state-funded legal aid is also ensured.

While there is no fixed structure for the interview, the applicant is informed at the beginning about the recording of the interview (audio and video), its purpose, and the confidentiality principle. The applicant is also made aware of their rights and obligations during the interview. They are given the opportunity to elaborate on their reasons for seeking asylum, but the scope of the interview may vary depending on the purpose (e.g., a Dublin application or admissibility assessment).

The interviewer will ask questions related to:

- The applicant's personal history, the situation in their country of origin, the route taken, and the persecution they have faced.
- The potential risks and harm they may face if returned to their country.
- The applicant is also given the opportunity to explain any inconsistencies or gaps in their story.

The interview is recorded, and later transcribed, but no written reports are presented to the applicant for approval. If needed, a follow-up interview may be conducted to clarify or complete any provided information.

Possibility to omit the personal interview

Positive decision	It is possible to omit the second interview, but an initial interview is always conducted.
Previous meeting - essential information	Not applicable
Issues raised are not relevant or of minimal relevance	Not applicable
Safe country of origin	Not applicable
Safe third countries	Not applicable

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Inconsistent, contradictory, improbable, insufficient representations	Not applicable
Subsequent application	Not applicable
Application to merely delay/frustrate enforcement	Not applicable
Not reasonably practical to conduct it	Not applicable
Applicant unfit or unable to be interviewed	If the state of health or long-term circumstances beyond the control of the asylum seeker do not allow to conduct an interview

Organisational aspects

Preparation and timing of the interview:

Applicants are notified about their personal interview (PI) through a formal invitation, which is sent in advance. The invitation is written in two languages, English and the applicant's native language (or a language they understand). The invitation includes:

- the venue (address, contacts, and map), date and time of the PI,
- the obligation of the applicant to cooperate with the Migration Department;
- the importance of the PI for the applicant because the applicant loses opportunity to orally and in detail explain the motives of his claim.

The applicant is asked to inform the Migration Department not later than 24 hours before the PI of his absence from the PI. The invitation also informs the applicant that absence from the PI without a good reason allows the Migration

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Department to take a decision without applicants' oral testimony, i. e. on material that is in his file. The invitation is returned back to the MD, signed by the applicant with his statement of consent or refusal to come for the PI. They also express their wish to have a legal representative at the interview.

The personal interview typically takes place at the Migration Department's premises, although interviews can also be conducted at the Foreigner's Registration Center if the applicant is detained or has health issues. In certain circumstances, remote interviews via video conference are possible, but face-to-face interviews are preferred.

Information provision (before the personal interview)

At the outset of the interview, applicants are informed on the purpose of the interview, Information is also provided regarding the respect of the confidentiality principle for all elements discussed in the personal interview, as well as regarding the rights and obligations of the applicant, including the obligation to provide all information and evidence needed in the application process and to cooperate with the national authorities. The applicant is also informed that the interview session will be recorded by official(s) who conduct the PI. At the end of the PI official(s) also inform the applicant about PI process and the possible outcomes of their application for international protection.

Modalities of carrying out the interview

The interview takes place at the Migration Department's offices or in exceptional circumstances, remotely. However, face to face is privileged.

Choice of gender of the interviewer/interpreter

Applicants can request the gender of the interviewer and interpreter. However, the request must be justified. The interview is conducted in the applicant's preferred language, with interpretation services provided by professional interpreters. If no professional interpreter is available, other arrangements are made, including using non-professional interpreters or video calls.

In situations where no professional interpreter is available to interpret in the language preferred by the applicant the interpretation is provided:

- in cooperation with other MS;
- by non-professional interpreter;

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- in another language which the applicant is reasonably expected to understand;
- using double translation;
- translating written elements of the application submitted by the applicant (every applicant has to be interviewed as PI is obligatory);
- remotely by phone or other video-conference systems (Skype, Viber, etc.) as a measure of last resort or in urgent cases.

Applicants can object to the interpreter designated for their interview, but such an objection has to be reasonable justified. Interpreters are checked by the State security department. Furthermore, three years of relevant work experience requirement is no longer applicable. Confidentiality requirement is foreseen in the contract, and it is additionally explained during each interview.

An applicant is notified in the language known to them; however, they do not get written translation of the decision.

Persons present during the interview

The interview is conducted with the applicant, the case handler, and the interpreter present.

The personal interview is conducted without the presence of the applicant's family members although the law states that their presence is possible if it is necessary for the inquiry.

The following third parties are allowed to be present:

- a lawyer or counsellor (if the applicant so desires - Art 82 of the Law on the Legal Status of Aliens).
- a legal representative/temporary guardian (custodian) for minors. This is obligatory in case of UAM. In case a minor is interviewed, one of their parents must be present. A lawyer can be present if a minor or their guardian express such a wish. During an initial interview of UAM, a legal representative and an officer from Child protection service must be present

Audio/Video recording and written report

The interview is typically recorded, either in audio or video format, or a written report is prepared. The report is a verbatim transcript of the interview. The applicant has the right to refuse the recording, but this does not stop the interview from taking place. Applicants also have the right to clarify or rectify any

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part of the personal interview report.

Access to the interview report is generally granted upon request, either after the interview or at a later stage in the process, such as during the appeal process if needed.

Postponing the personal interview

Interviews can be postponed due to personal circumstances relating to the condition or situation of the applicant.

Failure to appear

Failure to attend the personal interview without a valid reason allows the authorities to make a decision based on the available evidence in the applicant's file.

Other aspects

Second or follow-up personal interview: Second or follow-up personal interviews are not regulated by the law (the Law on the Legal Status of Foreigners does not specify on such practice), however in practice there is a possibility for subsequent interviews in cases where the applicant or the case officer expresses a need for it. In these cases, the second interview (on the merits of the application) is conducted by a civil servant from Asylum division of the Migration Department.

Special asylum procedures at first instance

Admissibility procedure

Legal basis and grounds:

Admissibility procedure: Article 77, Law on the Legal Status of Foreigners

An application is not examined as to substance by a decision of the Migration Department (found inadmissible), if:

- the asylum applicant has been granted asylum by another EU Member State or a safe third country and the asylum applicant is able to return to that

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state and continue to enjoy asylum;
- the asylum applicant has entered the Republic of Lithuania from a safe third country;
- the asylum applicant has lodged a subsequent application which does not contain any new essential elements.

Competent authority and other stakeholders

Migration Department (*Migracijos Departamentas*)

Procedural aspects

Procedural steps are outlined in Section Five “non-examination of asylum application” of the Description of the Procedure for Granting and Revocation of Asylum in the Republic of Lithuania. Main steps of the procedure are:

An authorized civil servant of the Migration Department conducts an interview with the asylum seeker, the purpose of which is to collect data necessary to verify that the circumstances specified in Article 77(1) of the Law on the Legal Status of Foreigners exist, due to which the application for asylum is not examined, and to provide the asylum seeker with an opportunity to substantiate why, in his opinion, his application for asylum should be examined on the merits.

When deciding on the admissibility of an application for asylum, if necessary, an authorized civil servant of the Migration Department shall send inquiries to other state institutions of the Republic of Lithuania, institutions of foreign states, except for the state of origin of the asylum seeker, international or non-governmental organisations, also collects relevant COI that is necessary for evaluation

After performing these actions and confirming that there are circumstances specified in paragraph 1 of Article 77 of the Law on the Legal Status of Foreigners due to which the application for asylum is not examined, the Migration Department, in compliance with the deadline set in paragraph 2 of Article 77 of the Law on the Legal Status of Foreigners, shall make a decision not to examine the application for asylum.

If, after performing these actions, it is determined that the decision of inadmissibility cannot be made, the authorized civil servant of the Migration Department shall choose one of the other procedures specified in subparagraphs 37.2–37.4 of the Description (on the examination of the asylum application).

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In case of an inadmissibility procedure the legal status of the applicant is still ‘asylum seeker’ (the legal status is determined at the stage of registration of the asylum application, and is not linked to the procedure that is being applied after), therefore he/she has the same rights, as outlined in Art. 74(1) of the Law on the Legal Status of Foreigners

In case of declared a state of emergency/crisis, pending a decision to admit them into the Republic of Lithuania, foreigners may be temporarily accommodated by the State Border Guard Service at the border crossing points, in the transit zones, at the State Border Guard Service, at the Refugee Reception Centre or other accommodation centres, in accommodation facilities, accommodation premises, temporary accommodation or in other locations adapted for that purpose, without granting them the right to move freely within the territory of the Republic of Lithuania. The presence of asylum applicants in those facilities shall not be considered entry into the Lithuanian territory.

In principle, application for international protection made by vulnerable persons cannot be precluded from the examination. however, in case of declared state of emergency/crisis, this safeguard is not applied (Art. 140/15).

The decision on inadmissibility is similar to an asylum decision by its scope – it states all the gathered facts, summary of applicants statement, an assessment of his claim and a legal evaluation on why the substance of the claim adheres to the legal provisions on inadmissibility. The possible outcomes are either a decision of inadmissibility, or a decision to channel the application into other procedure if it becomes clear after the full evaluation grounds for inadmissibility are not met.

Decision and time limits to decide

The Migration Department has 3 business days from the lodging of the application to decide on its admissibility.

The law does not provide grounds for extending the 3-business day term. If the Migration Department is not able to meet the deadline, a decision on admissibility may take longer. Applicants are not channelled to other procedures automatically.

The law also does not specify formal consequences for missing the deadline, however in practice lawsuits for damage compensation due to failure to comply with the procedure may be filled against the Migration Department.

Appeal

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According to Art. 14025, 14026 and 14027 of the Law on the Legal Status of Foreigners, applicants may appeal the outcome of the admissibility procedure before the Regional Administrative Court

The time limit to lodge an appeal is 7 days from the date of delivery of the decision and the suspensive effect is conditional, granted on the decision of the Regional administrative court

The time limits to decide (possibility to extend the time limits and consequences if they are not respected) are of 2 month for the first instance and 1 month second instance. There are no formal consequences if they are not respected, but compensation is possible in case of a separate appeal.

In case of successful appeal, the case is returned to the Migration Department for re-examination. If the outcome is negative, a second-instance appeal possible, which is not state-guaranteed.

Impact on reception conditions

The admissibility procedure has no impact on the reception conditions provided to asylum applicants. Asylum applicants are entitled to all reception conditions guaranteed by law and are housed in temporary accommodation facilities.

Accelerated procedure

Legal basis and grounds

Accelerated procedure: Article 76 (grounds), 81 (timeframe) and 138(2) (appeal procedure), Law on the Legal Status of Foreigners

An application is examined as a matter of urgency in case it is established that the applicant:

- has entered from a safe country of origin;
- has presented in the application for asylum only such information which is not relevant for the assessment of whether the foreigner may be granted asylum;
- in order to mislead the inquiry, has presented misleading information or counterfeit documents with respect to his identity or nationality or has withheld or destroyed information or documents with respect to his identity or nationality which may have a decisive effect on a decision on the

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granting of asylum;
- has lodged the asylum application based on the data, as supplied by the asylum applicant, which are inconsistent, contradictory, misleading and contrary to the information collected about the foreigner's country of origin and therefore clearly unconvincing;
- has lodged a subsequent application for asylum where no relevant new information or data have emerged or have been presented which significantly increase the likelihood that the asylum applicant may meet the criteria for international protection;
- has lodged the asylum application merely in order to frustrate the taking or enforcement of a decision to return or expel the foreigner to a foreign state
- refuses to allow his/her fingerprints to be taken;

for valid reasons, may be considered a threat to national security or public order, or he has been expelled from Lithuania due to a threat to national security or public order represented by his stay in Lithuania.

Competent authority and other stakeholders

The Migration Department (*Migracijos Departamentas*) within the Ministry of the Interior is the responsible authority in matters related to accelerated procedure.

Procedural aspects

Asylum seekers, whose applications are being examined within the accelerated procedure, can be held at the border or in transit zones until the final decision on their application. In such cases, applicants are accommodated during the examination of their application in border reception facilities. When these are not available, a decision can be taken by the State Border Guard Service in coordination with the Migration Department, to allow the applicant enter into the national territory.

The assessment of the asylum application under accelerated procedure is conducted under the same standard as per the normal procedure. The rights of the applicant are the same during the assessment of the application, including the personal interview. However in case of an accelerated procedure the execution of an issued order is not automatically suspended for the duration of litigation (must be stopped individually by a court order) and in case of deportation longer terms for the ban on entry can apply.

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In principle, application for international protection made by vulnerable persons cannot be examined through the accelerated procedure. however, in case of declared state of emergency/crisis, this safeguard is not applied and applicants who have been subjected to torture, rape or other serious psychological, physical or sexual violence shall be examined by way of priority (Art. 140/14).

The Law on the Legal Status of Foreigners makes no distinction between UAMs and vulnerable profiles.

Decision and time limits to decide

The application for asylum must be dealt with within 10 working days. The law does not foresee a possibility to extend the 10 working day limit. The law also does not specify formal consequences for missing the deadline, however in practice lawsuits for damage compensation due to failure to comply with the procedure may be filled against the Migration Department.

Appeal

According to Art. 14025, 14026 and 14027 of the Law on the Legal Status of Foreigners, applicants may appeal the outcome of the admissibility procedure before the Regional Administrative Court

The time limit to lodge an appeal is 7 days from the date of delivery of the decision and the suspensive effect is conditional, granted on the decision of the Regional administrative court

The time limits to decide (possibility to extend the time limits and consequences if they are not respected) are of 2 month for the first instance and 1 month second instance. There are no formal consequences if they are not respected, but compensation is possible in case of a separate appeal.

In case of successful appeal, the case is returned to the Migration Department for re-examination. If the outcome is negative, a second-instance appeal possible, which is not state-guaranteed.

Impact on reception conditions

The accelerated procedure has no impact on the reception conditions provided to asylum applicants.

Asylum applicants are entitled to all reception conditions guaranteed by law and are accommodated in temporary accommodation facilities.

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Border procedure

Legal basis and grounds

Border procedure: Article 140/8(3), Law on the Legal Status of Foreigners

The border procedure applies when an application is lodged during declared martial law, state of emergency, or an emergency declared due to a mass influx of foreigners, at a border control point, a transit zone or shortly after the illegal crossing of the state border of the Republic of Lithuania.

Competent authority and other stakeholders

The Migration Department (*Migracijos Departamentas*) within the Ministry of the Interior is the responsible authority in matters related to border procedure.

Procedural aspects

Foreigners who apply for asylum while staying at a border checkpoint, in a transit zone or in the territory of the Republic of Lithuania, when they have accessed it by illegally crossing the state border of the Republic of Lithuania, are not considered to have entered the territory of the Republic of Lithuania until a decision to allow entrance is issued. Decision regarding entrance has to be issued by the Migration department within 48 hours from the submission of the asylum application.

For the applicants seeking international protection at the border the same procedure applies as for those applicants who applied on Lithuanian territory, however, an additional decision regarding applicants' entry has to be made. In the case accelerated procedure is applicable, an applicant is not allowed to enter territory of the country. An initial screening takes place within 24 hours from the moment asylum application is lodged. The SBGS officer collects all available documents and travelling tickets from the applicant, carries out an inspection of the applicant and his/her personal belongings, takes fingerprints and pictures of the applicant and perform a primary interview and a vulnerability assessment After the initial screening, the officer transmits the application via electronic communication to the Migration Department which decides, within 48 hours from the lodging of the application, decision on admissibility and/or applicable procedure is issued.

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Unaccompanied minors are exempted from the border procedure, however when there are reasonable doubts about the age stated by the foreigner, the decision to allow entrance may be postponed until their age is determined, but for no longer than 28 days from the registration of the asylum application.

Decision and time limits to decide

A decision regarding entrance has to be issued by the Migration department within 3 days from the registration of the asylum application. MD decides within 3 days from the lodging of the application on the admissibility and on the type of procedure. In situation of declared emergency this timeframe increased to 10 days. If the limit to issue a decision on entrance is not met, the applicant is considered to be automatically granted entrance to the territory.

Appeal An appeal against the decision of the Migration Department to accommodate the asylum applicant in the temporary accommodation places without granting them the right to move freely within the territory of the Republic of Lithuania may be filed with the district court according to the location of the alien or another district court nearest to the location of the alien within 14 days from the date of the delivery of the decision to the alien. The decision of the district court may further appealed.

Information on how to appeal a decision is provided by the official who delivers the decision. Foreigners can also receive this information from their private lawyer, or from staff at the temporary accommodation facility, such as the social worker, lawyer, legal services coordinator, or the Head of the Centre. Foreigners may also seek advice from Lithuanian non-governmental organisations, such as the Red Cross and Caritas.

The Reception and Integration Agency coordinates the provision of state-guaranteed legal aid to foreigners identifies the legal aid needs of the foreigner or their legal representative, determines what type of aid can be provided, and ensures its effective delivery, including measures to avoid duplication of services. Asylum applicants have the right to state-guaranteed legal aid, as established by the Minister of Social Security and Labour. This applies to cases concerning their detention, the application or extension of alternatives to detention, and appeals before the court of first instance against decisions related to their asylum application. According to article 71(1)(6) of Law Nr. IX-2206 on the Legal Status of Foreigners, 29 April 2004 | Lietuvos Respublikos įstatymas dėl užsieniečių teisinės padėties, an asylum applicant has the right to free interpretation services insofar as these are related to the examination of the asylum

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application.

In cases where an asylum applicant is accommodated in temporary accommodation facilities, managed by the Agency, the organisation of meetings and hearings is the responsibility of the Agency. Designated Agency's staff ensure that hearings run smoothly, that all technical equipment is available and functioning properly, and that interpretation and legal services are provided to the asylum applicant during the hearing.

Impact on reception conditions

Applicants are temporarily accommodated without granting them the right to move freely within the territory of the Republic of Lithuania for a maximum of 28 days for minors or 5 months for adults.

Subsequent application procedure

Legal basis and grounds

Article 2(181) (definition); Article 5(4), Article 221(2) and Article 1409(1) (right to remain); Article 76(3)(5) (grounds for accelerated procedure); Article 77(1)(3) (grounds for non-examination); Article 83(4) (fear of persecution based on circumstances that the asylum seeker created himself), Law on the Legal Status of Foreigners

Competent authority and other stakeholders

The Migration Department (Migracijos Departamentas) within the Ministry of the Interior is the responsible authority in matters related to subsequent application procedure.

Procedural aspects

In case subsequent applications is lodged it can be treated:

within the admissibility procedure if it contains no new substantive motives. A personal interview is always conducted. The purpose of the interview has to be explained. Decisions not to examine a subsequent application, following a preliminary examination, are provided in writing – along with the underlying reasons – to the applicant, or

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in the accelerated procedure, if the subsequent application does not contain any new essential information or data have been discovered or submitted which would considerably increase the likelihood that the asylum seeker may meet the criteria for asylum.

A subsequent application can be examined in substance in case it contains new circumstances which increase the likelihood that the asylum seeker may meet the criteria for asylum.

Faster procedures apply for applicants who repeatedly lodge subsequent applications (it is a ground for accelerated procedure or non-examination)

There is an exception to the right to remain. In case of a first subsequent application the right to remain applies until a decision on asylum is issued (does not apply for the period of litigation). In case of a second and further subsequent applications the right to remain does not apply.

Decision and time limits to decide

A decision is always issued, the scope of the decision, possible outcomes and the procedure of examination are the same as set for a first asylum application. The time limits for a subsequent application therefore may be either 6 month (standard procedure) or 10 business days (accelerated procedure) without the possibility to extend.

Appeal

According to Art. 14025, 14026 and 14027 of the Law on the Legal Status of Foreigners, applicants may appeal the outcome of the admissibility procedure before the Regional Administrative Court

The time limit to lodge an appeal is 7 days from the date of delivery of the decision and the suspensive effect is conditional, granted on the decision of the Regional administrative court

The time limits to decide (possibility to extend the time limits and consequences if they are not respected) are of 2 month for the first instance and 1 month second instance. There are no formal consequences if they are not respected, but compensation is possible in case of a separate appeal.

In case of successful appeal, the case is returned to the Migration Department for re-examination. If the outcome is negative, a second-instance appeal possible,

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which is not state-guaranteed.

Impact on reception conditions

The subsequent application procedure does not affect the reception conditions provided to applicants. Asylum applicants are entitled to all reception conditions guaranteed by law and are accommodated in temporary accommodation facilities.

Last-minute application pending removal

Last-minute applications lodged by first time applicants pending a removal

Last-minute applications usually occur in detention before a deportation order, or if a foreigner has been arrested for being in the country illegally after fleeing from authorities.

A last-minute subsequent application, if launched to undermine a return or deportation, may be a ground for detention (Art. 113(4)(3) of the Law on the Legal Status of Foreigners), a ground to examine the application by accelerated procedure (Art. 76(4)(6) of the Law on the Legal Status of Foreigners) or a ground to deny the right t remain (Art. 5(4) of the Law on the Legal Status of Foreigners)

In terms of examination of such an asylum application, however, general rules still apply. After initial assessment it is decided if application can be reviewed under accelerated procedure.

Usually, last minute applications are reviewed under accelerated procedure. Return authorities can see all decisions issued by the Migration Department in the Foreigner’s registry. The Migration Department has to include information regarding court decisions to the registry, so return authority is able to see it too. Negative asylum decision can also include return decision, but it depends on case. Sometimes return decisions are issued separately.

Last-minute applications lodged as subsequent applications pending a removal

Art. 76(4)(6) of the Law on the Legal Status of Foreigners provides that if an applicant submits an application for asylum solely with the aim of preventing the adoption or execution of a decision to return or expel the alien to a foreign

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country, Migration Department examines the asylum under accelerate procedure.

There are no specific teams/units/organisational arrangements for the examination of such cases. Asylum applications are examined as per usual procedure (therefore *non-refoulement* is re-assessed)

Under Art. 113(2) of the Law on the Legal Status of Foreigners, an asylum seeker may be detained for the adoption and/or enforcement of the relevant decision on removal, but only if the detention is necessary for this cause (if the alien obstructs the adoption and/or enforcement of the decision, he may abscond to avoid return, expulsion or transfer etc.).

Safe country concept

Safe country of origin

The concept of a safe country of origin is defined in the Law on the Legal Status of Aliens, Articles 2(24) and Article 39, Order 1V-131 of the Minister of the Interior of the Republic of Lithuania on Approval of the Description of the Procedure for Granting and Withdrawing Asylum in the Republic of Lithuania.

According to the Law on the Legal Status of Aliens, 'safe country of origin'; means the foreigner's country of origin in which, on account of the legal situation, the application of the law and the general political circumstances, it may be safely assumed that neither persecution on the grounds of race, religion, citizenship, belonging to a certain social group or due to political convictions nor torture, cruel, inhuman or degrading treatment as punishment or violation of the human rights and fundamental freedoms is being practiced; there is no threat by reason of indiscriminate violence in situations of international or internal armed conflict.

Article 39 states that, inter alia, it has to be taken into account the following:

- A country of origin is a state party to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms and/or the 1966 International Covenant on Civil and Political Rights, and/or 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and whether a safe country of origin effectively implements the provisions of the above-mentioned instrument, in particular those rights which cannot be derogated from under the 1950 Article 15(2) of the European Convention for the Protection of Human Rights and Fundamental

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Freedoms;

- Its laws and implementation in practice enable nationals of that State and aliens residing there to enjoy effective and long-term protection within the meaning of Article 86(2) of the Law on the Legal Status of Aliens (Law on the Legal Status of Aliens, Article 86(2)) – “Effective and non-temporary protection against persecution is generally provided when the State, a group or organisation controlling the State or a substantial part of the territory of the State, including international organisations, take reasonable steps to prevent the persecution or the acts referred to in Article 87(1) of this Law (subsidiary protection grounds), by operating an effective legal system for the detection of persecution as well as prosecution and punishment of such acts”;
- The principle of non-refoulement in accordance with the Geneva Convention is respected;
- A country of origin allows non-governmental organisations to monitor their compliance with international human rights obligations; and
- In the country-of-origin democratic institutions and an effective legal mechanism for legal protection exist and redress in the areas of elections, political pluralism and the protection of freedom of expression.

The Migration Department is responsible to identify safe countries of origin. If it has reasons to believe that a country may be recognised as a safe country of origin, it drafts a report on the situation that needs to be approved by the Director of the Migration Department. Approval of the report automatically qualifies the country as a safe country of origin, and it is included in the national list.

In order for a country to be considered by the Migration Department for the purpose of enlisting it into the national list of safe countries of origin, at least 10% of the total amount of asylum applications received by Lithuania in the previous year need to be made by nationals of that country.

Currently, there is no national list of safe countries of origin, because the number of asylum applications received by Lithuania is very low and not enough to trigger the provision set out in law (i.e. no country ever accounted for more than 10% of the total number of applications received).

Safe third country

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The concept of a safe third country is defined in the Law of the Republic of Lithuania on the Legal Status of Aliens, Articles 2 (25) and 77, Article 50, Order 1V-131 of the Minister of the Interior of the Republic of Lithuania on Approval of the Description of the Procedure for Granting and Withdrawing Asylum in the Republic of Lithuania.

The concept is applied on a case-by-case basis via an admissibility procedure. The Migration Department is the authority identifying and designating safe third countries.

According to the Law on the Legal Status of Aliens, Article 2(25), safe third country means a country which is not the foreigner's country of origin but is a state party to the 1951 Convention relating to the Status of Refugees and/or the 1967 Protocol relating to Refugee Status as well as the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms and/or the 1966 International Covenant on Civil and Political Rights, implementing the provisions of the above-mentioned instruments and providing a feasible possibility under national laws to apply for and be granted asylum according to the established procedure.

The principle on the prohibition of removal, in violation of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law, is respected. Life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion. In such country, there is no risk of serious harm as defined in Directive 2011/95/EU and the principle of non-refoulement in accordance with the Geneva Convention is respected. There should be a connection with the country and conviction that it is reasonable for the applicant to settle there.

Currently, a list of safe third countries has not been adopted.

There is no assurance that the applicant will be readmitted to the country in question before a decision is taken based on the safe third country concept. It is assessed if there are any reasons to believe that a person will not be readmitted using the criteria on connection with the country. However, relevant Lithuanian authorities do not get any assurances.

First country of asylum

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The concept of a first country of asylum is not defined in law.

European safe third country

The concept of European safe third country is not defined in law.

Assessment of an application at first instance

Legal provisions relevant for an assessment

Law on the Legal Status of Foreigners and the Description of the Procedure for Granting and Revocation of Asylum in the Republic of Lithuania

Competent authority for the assessment

The Migration Department under the Ministry of Interior is responsible to carry out the first instance assessment and determination.

Required qualifications: Case workers are required an higher university education (bachelor's degree) or an equivalent higher education qualification in law, political science, public administration or: 1 year experience in the field of migration policy;

Training: Migration department officers may follow EUAA trainings such:

- interview technique (provided by EUAA)
- Identification of false document (applicable also for legal migration)

Grounds

Art. 9 and 10 of QD are transposed into Par. 99.1.1 - 99.1.9. of the Description of the Procedure for Granting and Revocation of Asylum in the Republic of Lithuania:

99.1.1. Persecution shall be considered to be acts of perpetrators of persecution, as defined in Article 86(2) of the Law "On the Legal Status of Aliens", which are sufficiently serious in their nature or frequency to constitute a serious violation of fundamental human rights, in particular those rights from which no derogation is

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possible under Article 15(2) of the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, or a combination of various measures, including human rights violations. Persecutory acts may include, inter alia: physical and psychological violence, including sexual violence; legal, administrative, police and/or judicial measures which are discriminatory in themselves or are implemented in a discriminatory manner and without ensuring the right to a fair trial; criminal prosecution or punishment which is disproportionate and discriminatory; refusal to provide compensation in a judicial procedure which is disproportionate and discriminatory punishment; crim

99.1.2. the acts of persecution or the lack of protection against such acts must be related to the asylum seeker's race, religion, nationality, membership of a particular social group or to his or her political beliefs;

99.1.3. race primarily includes skin colour, origin or membership of a particular ethnic group;

99.1.4. religion includes in particular theistic, non-theistic and atheistic beliefs, participation or non-participation in formal worship, whether in private or public, alone or in community with others, other religious practices or expressions of views or forms of personal or communal conduct based on or in conformity with any religious belief. In assessing the well-foundedness of such an asylum seeker's fear of being persecuted, it shall not be presumed that the asylum seeker is able to refrain from such religious practices in the country of origin;

99.1.5. nationality shall not be limited to the mere possession or absence of nationality, but shall primarily include membership of a group defined by its cultural, ethnic or linguistic identity, common geographical or political origin or relationship with the inhabitants of another State;

99.1.6. a social group is a group whose members share the same natural characteristics or a common history that cannot be changed, or who share the same characteristics or beliefs that are so important to the identity or conscience of that person that he or she should not be forced to renounce them. A social group has an individual identity in the country concerned, because it is perceived as different by the surrounding society. In order to recognize membership in a particular social group or to determine the characteristics of such a group, due account must be taken of gender-related aspects, including gender identity;

99.1.7. depending on the circumstances in the country of origin of the asylum seeker, a particular social group may include a group formed on the basis of a

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characteristic sexual orientation. In assessing the well-foundedness of such an asylum seeker's fear of persecution, it shall not be presumed that the asylum seeker may conceal his or her sexual orientation or refrain from expressing this sexual orientation in the country of origin in order to avoid persecution. Actions that would be considered criminal under the laws of the Republic of Lithuania cannot be understood as actions conditioned by a particular sexual orientation;

99.1.8. political beliefs primarily include the possession of beliefs, views or beliefs on matters related to potential perpetrators of persecution and their policies or methods, regardless of whether the applicant has taken action in accordance with those beliefs, views or beliefs or not;

99.1.9. in assessing whether an asylum seeker has a well-founded fear of being persecuted, regardless of whether he actually possesses racial, religious, national, social or political characteristics on account of which he may be persecuted, if such a characteristic is attributed to the asylum seeker by the perpetrator of persecution;

Guidelines for case officers

No national guidelines exist outside of the Description of the Procedure for Granting and Revocation of Asylum in the Republic of Lithuania. EUAA Country Guidance and UNHCR policy notes are used when applicable.

Credibility assessment

Art. 83(2) and 83(5) of the Law on the Legal Status of Foreigners and Section Two “Assessment of the Grounds for Asylum Application” of the Description of the Procedure for Granting and Revocation of Asylum in the Republic of Lithuania regulates the Credibility assessment.

Assessment of facts and circumstances when aspects of the applicant’s statements are not supported by documentary or other evidence

Credibility issues are communicated during the interview to the applicant, who can address them therein.

When relevant data for the determination of the applicant’s status cannot be supported by evidence, the assessment shall be made in favour of the applicant,

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and the application shall be considered as well-founded, provided that the explanation is consistent and not contradictory. In case the applicant has frustrated or delayed investigation and/or data collection, this provision shall not apply. (Art 83 Law on the Legal Status of Foreigners). In 2017, standards for assessing the credibility of asylum applicants' statements and well-founded fear were formalised by Order 1V-80 of the Minister of the Interior of the Republic of Lithuania of 30 January 2017 Amending Order No 1V-131 of the Minister of the Interior of the Republic of Lithuania of 24 February 2016 on Approval of the Description of the Procedure for Granting and Withdrawing Asylum in the Republic of Lithuania.

Time limit for submitting evidence during credibility

The law sets an obligation for the applicant to submit all his evidence to the Migration Department, however there are no specific time limits set in the law for the applicant to do so. In practice applicants may submit evidence up until the issuance of the decision.

COI research

Caseworker mostly research COI themselves however can also consult the COI researcher within the Asylum Division for COI related information through queries.

Decision and outcomes

Following Art. 82.2 of the Law on the Legal Status of Foreigners, asylum applicants must be always notified of all decisions made in their respect in a language they know, and be provided with copies thereof.

Once the applicant has been granted refugee status or subsidiary protection, the Migration Department shall provide the refugee with information in a language he or she understands on the rights and obligations related to his/her status.

Decision includes an abstract with the information on the right to appeal, the explanation of the procedure to launch an appeal (including timeframes), and a check-box to inform the Migration Department if the asylum seekers wish for a state-sponsored solicitor to be attributed to them for the appeal.

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The law requires to notify the applicant of an issued decision ‘without delay’ but does not set a specific time limit. If the asylum seeker is not present in the Republic of Lithuania or it is impossible to contact him, by law he may not be notified of the decision until it is possible to reach him. Asylum seekers are being notified of the decisions in-person, there are no complementary methods of notification.

The applicant may access unclassified documents of his file upon a written request to the Migration Department

If the foreigner has no legal grounds to stay in Lithuania, a return order and an order on deportation (in case a voluntary return is not fulfilled) are issued together with the negative decision

Family units receive a single negative decision if their applications were examined together. Decisions may have separate headings/annexes for different family members, depending on the context of the individual case

Minors and unaccompanied minors: In case of a family unit notifications are provided to all adult family members, if their application was assessed as one. Interpreters are present if there is a need for them. All notified asylum seekers are handed a written copy of the decision. No specific additional legal requirements are foreseen on notifications to unaccompanied minors.

COI units

Background information

COI unit: Formally there is no separate COI Unit, and the COI function is integrated in the Asylum Division and is supervised by the Head of the Division.

Legal basis: Description of the Procedure for Granting and Revocation of Asylum in the Republic of Lithuania, Paragraph 7 Information is not currently available

Structure and capacity

Organisation: The Asylum Division responds to COI queries and provides guidance to case officers in their COI research. Currently, there is one person responsible to carry out such tasks.

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Mandate and tasks: COI experts should have:

- Higher education degree;
- English language - B1 level; or Russian language - B1 level;
- Knowledge of social and political situation of foreign countries, especially in the field of human rights; ability to analyse, process and make summaries of information from different sources.

Staff capacity: Information currently not available.

Requirements: General requirements set for the staff of the Asylum Division

Regular training and updates: Staff members responsible for COI should complete EUAA training modules and peer training.

COI products

Type of COI products produced and frequency: There is no separate COI unit within the Asylum Division. COI is mostly gathered by case officers themselves or drafted as response to queries by the COI contact point. Guidance are not being produced, and COI products are not publicly available.

Languages: COI in other languages is translated with Google Translator and then, if needed, the document is officially translated. The final COI products are produced in Lithuanian.

Methodology and sources: No specific methodology set in national law, EUAA guidelines on COI are used.

Quality check: COI products may be peer reviewed by other case officers.

Other aspects of COI units

Information is currently not available.

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