



Input by civil society organisations to the Asylum Report 2024

Dear Colleagues,

The production of the *Asylum Report 2024* is currently underway. The annual <u>Asylum Report</u> <u>series</u> presents a comprehensive overview of developments in the field of asylum at the regional and national levels.

The report includes information and perspectives from various stakeholders, including experts from EU+ countries, civil society organisations, researchers and UNHCR. To this end, we invite you, our partners from civil society, academia and research institutions, to share with us your reporting on developments in asylum law, policies or practices in 2023 by topic as presented in the online survey (**'Part A' of the form**).

We also invite you to share with us any publications your organisation has produced throughout 2023 on issues related to asylum in EU+ countries. These may be reports, articles, recommendations to national authorities or EU institutions, open letters and analytical outputs (**'Part B' of the form**).

Your input can cover information for a specific EU+ country or the EU as a whole. You can complete all or only some of the sections.

Please note that the Asylum Report does not seek to describe national systems in detail but rather to present <u>key developments of the past year</u>, including improvements and challenges which remain.

All submissions are publicly accessible. For transparency, contributions will be published on the EUAA webpage. For reference, contributions to the 2023 Asylum Report by civil society organisations can be accessed <u>here</u>, under 'Acknowledgements'. All contributions should be appropriately referenced. You may include links to supporting material, such as analytical studies, articles, reports, websites, press releases or position papers. If your organisation does not produce any publications, please make reference to other published materials, such as joint statements issued with other organisations. Some sources of information may be in a language other than English. In this case, please cite the original language and, if possible, provide one to two sentences describing the key messages in English.

The content of the Asylum Report is subject to terms of reference and volume limitations. Contributions from civil society organisations feed into EUAA's work in multiple ways and inform reports and analyses beyond the Asylum Report.

Your input matters to us and will be much appreciated!

*Please submit your contribution to the Asylum Report 2024 by **Thursday, 30 November 2023.***

Instructions

Before completing the survey, please review the list of topics and types of information that should be included in your submission.

For each response, <u>only</u> include the following type of information:

Part A:

- ✓ New developments and improvements in 2023 and new or remaining challenges;
- ✓ Changes in policies or practices, transposition of legislation or institutional changes during 2023;
- ✓ Across the different thematic sections feel free to make reference to issues related to the implementation of the Temporary Protection Directive at national level.

Part B:

✓ New publications your organisation produced in 2023

Please ensure that your responses remain within the scope of each section. <u>Do not include</u> <u>information that</u> <u>goes beyond the thematic focus of each section or is not related to recent</u> <u>developments.</u>

PART A: Contributions by topic

 Access to territory and access to the asylum procedure (including first arrival to territory and registration, arrival at the border, application of the *non-refoulement* principle, the right to first response (shelter, food, medical treatment) and issues regarding border guards)

Although practice of collective expulsion in Lithuania was introduced in August 2021, on 3 May 2023, the pushbacks were established in the Republic of Lithuania Law on the State Border and its Protection (hereinafter - LSBP). Article 4 Paragraph 13 of LSBP states that "In the event of a declared state-level emergency due to the massive influx of foreigners and in order to ensure the national security and public order of the Republic of Lithuania, the Government, on the basis of the proposal of the National Security Commission, may decide that foreigners who intend to cross or have crossed the state border in places not designated for that purpose or in places designated for that purpose, but who have violated the state the border crossing procedure, and those on the border section, are not allowed into the territory of the Republic of Lithuania. This provision applies individually to each foreigner. If it is determined that the foreigner is retreating from the armed conflicts specified in the Government's decision, as well as from persecution, as defined in the 1951 Refugee Convention, or seeks to enter the territory of the Republic of Lithuania for humanitarian purposes, the provision on the non-admission of foreigners to the Republic of Lithuania shall not apply. The presence of foreigners who crossed the state border in places not designated for that purpose or in places designated for that purpose, but violated the procedure for crossing the state border, is not considered to be in the









territory of the Republic of Lithuania. Foreigners who are not admitted to the territory of the Republic of Lithuania must undergo an assessment of their need for assistance and, in the event of a need for assistance, these foreigners are provided with the necessary immediate medical or humanitarian assistance. The Commander of the State Border Guard Service (hereinafter - SBGS) shall approve the procedure for the implementation of the Government decision referred to in the present paragraph and assessment of assistance needs". This provision foresees additional document, an order of the Commander of the SBGS which describes procedures at the border, however, this document is not public. SBGS states that this document is exclusively for internal use and does not share this document publicly. Furthermore, a list of conflicts approved by the Lithuanian Government had to be issues. This list was proposed by the Parliament. Despite decision of the Parliament, Lithuanian Government stated that there is "no objective basis" for establishing a list of armed conflicts and scrapped a Parliament-approved exemption as this would help "avoid creating an attraction factor for instrumentalised migration"¹.

Additionally, according to Article 11 of the LSBP, the border area stretches to 5 km inside the territory of Lithuania. This means that people who arrived illegally but are outside the 5 km border area should have their asylum applications accepted and contrary those, who are within 5 km distance border area will appear within the framework of legal fiction of non-entry, therefore their right to access asylum procedure will be highly restricted. It has to be additionally noted, that Law on the Legal Status of Foreigners (hereinafter - LLSF) still requires to submit asylum application at border control posts (hereinafter – BCP) or transit zones, therefore, being apprehended at the green border, even if person is more than 5 km into the territory, does not guarantee that asylum application will be registered.

LSBP also established border guard service "sponsors" position - volunteers who can patrol and use coercion against migrants and asylum seekers, help make arrests, and perform other patrol guard-like duties. Sponsors can be citizens of any EU member state so long as they speak some Lithuanian and have declared their residence in the country, are at least 18 years old, has at least secondary education, and are not currently serving as a border guard somewhere else².

LSBP amendments were widely criticized by the Lithuanian human rights organizations³. The Amnesty International described the Lithuanian bill as a green-light to torture⁴. Former head of the Constitutional Court Dainius Žalimas has said that "pushbacks are

¹ Lithuanian government drops exemption from migrant pushback law - LRT< available at: https://www.lrt.lt/en/news-inenglish/19/1976641/lithuanian-government-drops-exemption-from-migrant-pushback-law

² Lithuania's border protection law to allow 'volunteer' patrols to use violence against asylum seekers - LRT, available at: https://www.lrt.lt/en/news-in-english/19/1968329/lithuania-s-border-protection-law-to-allow-volunteer-patrols-to-useviolence-against-asylum-seekers

³ <u>Groups criticise Lithuania's migrant pushback law, saying it mimics Hungary - LRT, available at: https://www.lrt.lt/en/news-in-english/19/1964825/groups-criticise-lithuania-s-migrant-pushback-law-saying-it-mimics-hungary; Lithuania legalises migrant pushbacks - LRT, available at: https://www.lrt.lt/en/news-in-english/19/1970339/lithuania-legalises-migrant-pushbacks; Lithuanian president signs migrant pushback bill into law - LRT, available at: https://www.lrt.lt/en/news-in-english/19/1972027/lithuanian-president-signs-migrant-pushback-bill-into-law</u>

⁴ Lithuania: Legalizing illegal pushbacks gives green-light to torture - Amnesty International, available at:

https://www.amnesty.org/en/latest/news/2023/04/lithuania-legalizing-illegal-pushbacks-gives-green-light-to-torture/





unconstitutional, so it's only a matter of time before the Constitutional Court says so too"⁵. UNHCR representative for the Nordic and Baltic countries also criticises decision to turn away those crossing from Belarus.⁶

After LSBP amendments entered into force at least few cases when people from countries where armed conflicts are going on were pushed back were published by media⁷. Furthermore, there is a public information about a push back of Russian army lieutenant who was registered as an asylum seeker only after he managed to cross border illegally and reach Vilnius (located about 50 km from the border)⁸, who's situation would fall under exception foreseen in the LSBP.

According to the data published in August 2023, 194 asylum applications were submitted at border checkpoints or after crossing the border illegally⁹. In comparison, on August 2023 SBGS announced that 1539 push backs were implemented¹⁰. According to SBGS, in 2023 (until 2023-11-17) 2 428 foreigners who were attempting to cross the border irregularly were not allowed to do that. There is no precise data on whether unique cases or persons attempting to enter repeatedly are counted.

The Lithuanian Red Cross society (hereinafter - LRC) observes that exceptions are still made for citizens of Belarus (their asylum applications are registered even in case of illegal border crossing through the green border and if they are apprehended within 5 km distance). There are also rare exceptions for humanitarian reasons. For example, in March 2023, a family of Iranian citizens - a mother and her minor son - were admitted at the border with Belarus. People were exhausted, the mother had pneumonia and was hospitalized immediately. The most people are not allowed in and they are pushed back to Belarus.

As for the legal way (by national law) to arrive regularly and submit an asylum request at the international BCPs, it is noted that asylum requests are not always accepted by SBGS officers. in 2023, the LRC monitors received information regarding at least 2 cases where asylum applications were not accepted. On January two young Russian citizens (Chechen origin) arrived by transit train to the Lithuanian-Belarusian border, but their asylum requests were not accepted. They were forced to continue their journey and reached the Russian exclave in the Kaliningrad Oblast. They have tried again to go back by train and asked for asylum at the Lithuanian-Russian border, however, the requests were not accepted. Requests were made both

crisis-answered

⁵ <u>Fences, detentions, pushbacks – five questions about Lithuania's migration crisis answered - LRT, available at:</u> <u>https://www.lrt.lt/en/news-in-english/19/2018482/fences-detentions-pushbacks-five-questions-about-lithuania-s-migration-</u>

⁶ <u>'You can't tell if someone is migrant or refugee from their face' – UN rep slams Lithuania's border policy - LRT, available at: https://www.lrt.lt/en/news-in-english/19/2079440/you-can-t-tell-if-someone-is-migrant-or-refugee-from-their-face-un-rep-slams-lithuania-s-border-policy</u>

⁷ <u>Lithuania detains migrant group on border with Belarus - LRT, available at: https://www.lrt.lt/en/news-in-english/19/2108498/lithuania-detains-migrant-group-on-border-with-belarus</u>

⁸ <u>Russian lieutenant applies for asylum in Lithuania - LRT, available at: https://www.lrt.lt/en/news-in-english/19/2055609/russian-lieutenant-applies-for-asylum-in-lithuania</u>

⁹ Over 100 people claim asylum in Lithuania in 2023 - LRT, available at: https://www.lrt.lt/en/news-in-

english/19/2056445/over-100-people-claim-asylum-in-lithuania-in-2023

¹⁰ Nejleistų neteisėtų migrantų statistika | Valstybės sienos apsaugos tarnyba prie Lietuvos Respublikos vidaus reikalų ministerijos (archive.org), available at: https://web.archive.org/web/20230817110619/https:/vsat.lrv.lt/lt/naujienos/neileistuneteisetu-migrantu-statistika/





orally and in a written form. In August, information was received that an asylum request from a possibly vulnerable Tajik woman who arrived at the BCP located at the border between Lithuania and Belarus was not accepted. In this case, the aforementioned woman used the services of a private lawyer who approached NGOs in order to support him. In August another complicated situation arose on the border between Lithuania and Russian Federation when information was received about the allegedly inadmissible asylum request of a citizen of Belarus. All the time the person was in direct contact with the representatives of the LRC and, according to him, he already received a document of a refusal to allow entry through the state border (he tried to submit asylum application at the BCP as LLSF requires). Finally, the situation normalized, and the asylum application was registered.

It should be noted that the LRC only gets access to foreigners who were registered as asylum seekers or are in process of registration, it means that if a person verbally asked for asylum but due to various reasons (e.g. was apprehended at 5 km distance at the border) was not registered, the LRC will not have an access to such foreigner. Meanwhile, in 2023, starting from summer, irregular arrivals across the Latvian-Belarusian border increased significantly. Some foreigners manage to cross the border and remain unnoticed. They continue moving through the territory of Lithuania and are detained either in Lithuania or transferred from Poland to Lithuania. According to publicly available sources, the number of arrivals through Latvia (information from SBGS appears publicly and in the media) reaches hundreds¹¹. Generally, the Lithuanian state seeks to transfer these persons to Latvia in a simplified procedure, based on readmission agreements. As a result, access to the asylum procedure is limited.

The LRC is trying to react proactively and address the SBGS after getting information (usually from media) about any vulnerable persons, accidents which related to migrants, etc. The LRC offers psychosocial support (hereinafter – PSS), restoring family links (hereinafter – RFL) services, humanitarian aid. In exceptional cases, the LRC manages to obtain access, on the condition that non-asylum seekers are not monitored and do not receive legal advice. For example, in October a report appeared a group of around 14 persons (2 of them - women) detained at the Lithuanian-Belarusian border. 2 persons were hospitalized, the rest of the group (some of them were also examined by doctors, one spent a night in the hospital) was pushbacked, although SBGS officially stated that people in Belarus were subjected to violence by local officials (they were beaten, their personal phones were taken away and broken), which means that people, redirecting them back, could again face a direct threat of violence and other inhumane treatment¹². After the health conditions worsened, 4 people from the mentioned group were allowed to enter Lithuania for humanitarian reasons. Finally, all 6 mentioned persons were registered as asylum seekers. At least one of them underwent partial amputation of frozen limbs, reminding the scenario of winter 2022-2023.

¹¹ Kalvarijos pasieniečiai mikroautobuse aptiko 17 iš Latvijos gabentų migrantų (foto), November 9, 2023, available at: <u>https://vsat.lrv.lt/:</u><u>https://vsat.lrv.lt/lt/naujienos/kalvarijos-pasienieciai-mikroautobuse-aptiko-17-is-latvijos-gabentu-migrantu-foto/</u>

¹² Pasieniečiai sulaikė 14-os migrantų grupę, 5-iems iš jų dėl Baltarusijos pareigūnų elgesio kviesti medikai - LRT, available at: https://www.lrt.lt/naujienos/lietuvoje/2/2108325/pasienieciai-sulaike-14-os-migrantu-grupe-5-iems-is-ju-del-baltarusijos-pareigunu-elgesio-kviesti-medikai





SBGS claims that during the process of the control/prevention of irregular arrivals at the border, state of health of foreigners is being assessed, ambulance is called if needed, and humanitarian packages (clothes, shoes, water, food, etc.) are delivered. However, none of the independent monitoring bodies have access and there is no reliable information on the extent of what is happening in the field. Only summary information about the prevented irregular arrivals is available publicly¹³.

As it is reported by the media, that in 2023 at Lithuanian border were found 2 dead migrants¹⁴. Moreover, the LRC identified 5 migrants (from Sri Lanka, Egypt and Syria) who underwent partial amputation of frozen limbs in the period from 2022 to 2023 November.

Access to asylum procedure at the territory is also problematic. The Seimas Ombudspersons' Office in its conclusion¹⁵ identified that the Migration Department under the Ministry of the Interior of the Republic of Lithuania (hereinafter – the MD) continues flawed practices related to the registration of asylum applications. Despite the MD claims that since the end of the year 2022 all asylum applications are properly registered, the Seimas Ombudspersons' Office concluded that practice is flawed. Seimas ombudsperson' institution stated that the actions of the officers of the MD, when the performance of the functions assigned to their competence (registration of asylum applications) was transferred to the SBGS, as well as the failure to provide relevant information, which had an impact on the restriction of the applicants' freedom of movement is bureaucracy and violation of legal regulation.

Access to asylum through Lithuanian embassy in Minsk continues to raise serious concerns. Vilnius district administrative court decided situation of citizen of Cuba who applied for asylum at the embassy but did not receive any decision from the MD (he applied for asylum in November 2021, but for the first time he was contacted by the MD in August 2022) and was deported back to Cuba by the Belarussian authorities. The court in case No. eI2-2077-535/2023 decided that the MD illegally and unreasonably failed to examine the applicant's asylum application and obligate the MD to examine his application. Although asylum seeker was already returned to his country of origin, the court refused to oblige the MD to create possibility for the applicant to come to Lithuania, where he would be able safely wait for the decision¹⁶. The Lithuanian Supreme administrative court upheld decision of the lower court. Such jurisprudence confirms that "embassy procedure" does not ensure one of the fundamental goals of the asylum institute – the protection of a person from refoulement. It is worth noting that

 ¹³ Neįleistų neteisėtų migrantų statistika, Valstybės sienos apsaugos tarnyba (Statistics of denied illegal migrants, State Border Guard Service) / on a daily basis, available at:: <u>https://vsat.lrv.lt/lt/naujienos/neileistu-neteisetu-migrantu-statistika/</u>
¹⁴ Probe finds Indian national died of hypothermia on Lithuania-Belarus border - LRT; First migrant death reported on Lithuanian border - LRT, available at: https://www.lrt.lt/en/news-in-english/19/1865184/first-migrant-death-reported-on-lithuanian-border

¹⁵ PAŽYMA DĖL X IR Y SKUNDO PRIEŠ MIGRACIJOS DEPARTAMENTĄ PRIE LIETUVOS RESPUBLIKOS VIDAUS REIKALŲ MINISTERIJOS IR VALSTYBĖS SIENOS APSAUGOS TARNYBĄ PRIE VIDAUS REIKALŲ MINISTERIJOS - LRSKĮ (Irski.lt), available at: https://www.lrski.lt/documents/pazyma-del-x-ir-y-skundo-pries-migracijosdepartamenta-prie-lietuvos-respublikos-vidaus-reikalu-ministerijos-ir-valstybes-sienos-apsaugos-tarnyba-prie-vidaus-reikaluministerijos/

¹⁶ VAAT nutartis: Migracijos departamentas neteisėtai ir nepagristai neišnagrinėjo ambasadoje pateikto prieglobsčio prašymo - Žmogaus teisių stebėjimo institutas (hrmi.lt), available at: https://hrmi.lt/vaat-nutartis-migracijos-departamentas-neteisetaiir-nepagristai-neisnagrinejo-ambasadoje-pateikto-prieglobscio-prasymo/





Lithuanian courts created an exceptional situation when the MD was obliged to assess asylum application while person was in his country of origin.

2. Access to information and legal assistance (including counselling and representation)

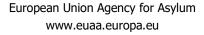
The LRC continuously updates and provides SBGS handouts for asylum seekers. In recent years, the current leaflet has been translated into more than 10 languages (the current edition is planned until the end of 2023). SBGS border units and Foreigners' Registration Center (hereinafter – FRC) receive leaflets in printed version as wells as in electronic version with a possibility to print it (them) on site; also QR codes are available if people can use their phones and have Wi-Fi connection at the border areas. Such practice is relevant, for example, at the border units, when newly arrived asylum seekers from countries whose language(s) is/are not available in the delivered handouts in the most popular English, Russian, Arabic or Farsi languages.

The LRC legal team continues providing legal counselling for asylum seekers. Legal aid of the LRC covers consultations and support in preparations of the documents for the asylum procedures, also support in litigation. The LRC has access to BCPs' and accommodation centres (Pabradė, Rukla, Naujininkai, Girionys), also remand prisons and correctional facilities. It has to be noted that at BCPs' and Pabradė FRC the LRC has an access only to registered asylum seekers.

3. Provision of interpretation services (e.g. introduction of innovative methods for interpretation, increase/decrease in the number of languages available, change in qualifications required for interpreters)

Translation services were fully operational at the beginning of 2023, as the number of foreigners living in the centers was decreasing. Both the SBGS FRC in Pabradė and the Refugee Reception Center (hereinafter - RRC) in Rukla and Vilnius (Naujininkai) were staffed by EUAA interpreters (a larger number in Pabradė, a smaller - in Rukla and Vilnius). The number of EUAA translators gradually decreased. However, it should be noted that the flow of foreigners arriving irregularly across the Latvian-Belarusian border increased significantly, especially in the summer period and continued in late autumn. Some of them are temporarily accommodated at the border units (modular container-type houses), some are later sent to the FRC in Pabradė.

It is noteworthy that the linguistic groups also changed significantly over the year. If Arabic, Kurdish dialects, also French were dominant before in a period of 2021-2022, the number of citizens of Afghanistan, Sri Lanka, India, Iran has increased significantly. Therefore, there is a huge need for Farsi, Tamil, Sinhalese, Hindi, and in some cases - less common languages such as Tigray, Bengali or even Spanish. Naturally, the localization of interpreters of these languages were not foreseen, and the dynamics of the migration flow is changing rapidly, the range of countries of origin varies and increases (comparing to 2021 crisis when 80-90 percent were citizens of Iraq).



Winemakers Wharf Valletta, MRS 1917, MALTA

accelerated procedures, admissibility procedures, prioritised procedures or any special procedure for selected caseloads)

5. Special procedures (including border procedures, procedures in transit zones, Though the LLFS does not explicitly refer to "border procedures", since summer 2021,

Dublin procedures to Italy were suspended. Lithuanian takes responsibility for the asylum cases

accepted by Italy, if the transferred is not conducted within 6 months period.

thousands of asylum seekers arriving from the territory of Belarus (including asylum seekers from Syria, Yemen, Afghanistan, Iraq etc.) have been automatically and arbitrarily referred to the "accelerated procedure" (except nationals of Belarus, Russia, or other CIS countries) which was neither legally justifiable nor leading to an expeditious examination of asylum claims. This resulted in mass detention of asylum seekers.

In 2023, the practice of applying the accelerated procedure remains arbitrary. In some cases, asylum seekers who managed to cross the Lithuanian-Belarus border and apply for asylum

Most of the asylum seekers and other migrants that irregularly crossed Lithuanian-Belarusian border in 2021 got freedom of movement in summer 2022 and absconded to other EU countries, therefore, as some of them are returned, the LRC initiated a thematic monitoring about reception conditions of people transferred to Lithuania under Dublin III Regulation. As the LRC does not have personal data about people transferred to Lithuania, we can only get access to some of these people who are accommodated in FRC. 2 visits to FRC were made (in July and the second in October) with the aim of comparing if reception conditions had changed during time and to meet newly arrived people. Now the monitoring report is under preparation, despite that we can share a few general observations. Asylum seekers and other migrants transferred to Lithuania and accommodated in FRC are provided the same reception conditions as everyone else living in the center. Despite that, there are documented cases when asylum seekers got court decisions to impose alternative to detention measures with a right to move only in the territory of FRC (it means that person can only move around small fenced territory around the building where he/she is accommodated and even though it is called "alternative", numerous times such situation was recognized as de facto detention by the national courts) solely relying on the fact they left Lithuania when they did not have a right to do that.

4. Dublin procedures (including the organisational framework, practical developments, suspension of transfers to selected countries, detention in the framework of Dublin procedures)

always has general information (internal rules of the center) in many languages, but the translation of all other current and constantly updated information takes time, requires resources, procurement procedures and, as it was reported, is not happening or is ensured only partially, very slow, etc.

It was recorded that there is a lack not only of interpreters (additionally interpreters are being involved remotely, however, it costs, and border guards use them mostly for procedures, court hearings, etc., and there is a great lack of interpreters for everyday domestic communication), but also of distributed information materials. For example, at the FRC in Pabrade, the local staff









outside the border zone¹⁷ or people in the border zone who due to their medical conditions (frostbite, dehydration, injuries etc.) were brought to a hospital and managed to apply for asylum there, had their asylum applications examined in the ordinary procedure. However, recent cases suggest that the practice of arbitrarily applying the "accelerated procedure" is increasing. It is important to note that the MD does not publicly disclose information on the number or nationality of asylum applications that are evaluated in the "accelerated procedure", so these observations are based on the information gathered in the field. The LRC also observed situations when asylum seekers in accelerated procedure managed to receive asylum which raises doubts regarding proper evaluation of grounds leading to the accelerated procedure.

 Reception of applicants for international protection (including information on reception capacities – increase/decrease/stable, material reception conditions – housing, food, clothing and financial support, contingency planning in reception, access to the labour market and vocational training, medical care, schooling and education, residence and freedom of movement)

Border units. As for the border units, the reception and protection conditions of asylum seekers are mostly according to standards, there is no overcrowding.

People who have applied for asylum at the BCPs (arrived regularly), are accommodated at the BCPs designated asylum seekers' premises. In case of irregular arrivals, people usually are accommodated at the SBGS frontier stations premises. Some of them are designated for asylum seekers, some – not. It was noticed that in 2023 SBGS has took into account the periodically recorded recommendations about accommodation in unsuitable detention facilities (i.e., where there are no beds but mattresses, slamming doors without an internal handle, etc.) and no longer accommodate asylum seekers there, in fact SBGS is directing people to the nearest suitable accommodation places.

Another positive fact is that asylum seekers do not spend a long time at the border units and after 1-2 days, when the initial registration procedure is over, asylum seekers are being directed to the main centers – FRC or RRC – or could live on their own on some occasions. Nevertheless, if a person request asylum on Friday or weekend, person is usually kept at BCP or frontier station more than 48 hours (which is maximum period of detention without a court decision) without possibility to leave BCP or frontier station which leads to de facto detention. This situation raises serious concerns.

Situation of foreigners who do not have asylum seekers' status (as it was identified before access to asylum procedure at the border is highly restricted) differs. The LRC monitors had a possibility to interact with foreigners whose applications were finally registered and whose testimonies show that the reception conditions without the corresponding status are fundamentally different. Their needs for hygiene, nutrition, additional clothing/footwear are not met, there is no connection with the outside world at all (no phone connection, no free legal counselling, no possibility to reach out relatives, etc.) and they are frequently accommodated at modular container-type houses at the territory of frontier stations.

¹⁷ The Republic of Lithuania Law on the State Border and its Protection establishes that the border zone extends 5 km inside the territory of Lithuania.





FRC. The situation of reception and protection conditions at FRCs (Pabrade and Kybartai) in 2023 improved as the population decreased. There was sufficient accommodation space for one-person, adequate nutrition (with some complaints about the timing of catering arrangements), access to health care and psychological services, leisure activities, etc. FRC in Kybartai (established in 2021 during the border crisis) was closed at the beginning of 2023. This center remains in the SBGS reserve.

The situation changed in summer 2023, when the population at FRC began to increase due to detained persons arriving irregularly across the border between Latvia and Belarus.

Due to the FRC's practice of quarantining newly arrived ones, the usual quarantine building is no longer sufficient, and many floors or sectors of other buildings have also become quarantine zones. Not only the LRC monitors do not have access to the quarantined people, but also the LRC RFL coordinator lost the access, so it is not known whether the people placed here (regardless of their legal status) have contact with the outside world, what their mental health status, etc.

It should be noted that during the year there were minors in the FRC whose freedom of movement was restricted. Education was organized inside the center, where teachers from the town school came regularly. In certain cases, escort of children to school is organized, when a child who does not have freedom of movement is taken to school by an officer, while the parents remain in the center's territory.

Some people accommodated in the FRC have a right to work. It is easier to find job if person is fully identified and has ID documents. Otherwise, employers look differently at foreigners with foreigners' registration cards issued by the MD. In addition, with foreigners' registration card it is not possible to open a bank account, and this is a great challenge arranging a job contract (Lithuanian legal regulation foresees that all salaries has to be paid to the bank accounts and for this particular group of foreigners exception is made; however, it creates additional burden for the employers as payment system is related to the banking system).

The FRC is a mixed-type center, so the movement of people here is threefold. One group of people can leave the area and must return within a certain period (72 hours). The second group cannot leave the center but can move freely or partially (within a certain perimeter) within the boundaries of the territory. The third group is in a full-scale detention, where people live in separate locked sectors with the opportunity to go outside, exercise, eat, etc. at set hours.

People have access to medical staff and a psychologist. Residents are mostly satisfied with the services of psychologists. Evaluation of medical services varies.

Another unusual practice is that asylum seekers, who technically are not admitted to the Republic of Lithuania, accommodated at FRC do not receive certain social guarantees - monthly cash payments. This is a discriminatory factor compared to the other asylum seekers, however, established by law, not FRC administration. It creates tensions between foreigners. At the moment the LRC supports asylum seekers who are not admitted to the territory by paying monthly cash payments in the same amount as foreseen for those who are admitted to the territory.





 Detention of applicants for international protection (including detention capacity – increase/decrease/stable, practices regarding detention, grounds for detention, alternatives to detention, time limit for detention)

On 7 June 2023 the Constitutional Court of the Republic of Lithuania issued a landmark ruling in the case no KT53-A-N6/2023¹⁸. The Constitutional Court ruled that Paragraph 6 of Article 5 (wording of 13 July 2021) of the Law on the Legal Status of Aliens and Paragraph 3 of Article 140⁸ of the Republic of Lithuania's Law on the Legal Status of Aliens and subsequent wording of 20 April 2023 of the Paragraph 3 of Article 140⁸ violates Article 20 of the Constitution. The Constitutional Court concluded that "<...> when applying, in accordance with the impugned legal regulation, the same measure to all asylum seekers, i.e. temporary accommodation in designated places without granting them the right to move within the territory of the Republic of Lithuania, no preconditions were created for an individual assessment of each person's situation, among others, of the real threat posed by him or her to values protected by the Constitution, the interests of the state and society, which were intended to be protected by such a legal regulation, and no preconditions were created for the application of alternative measures that were less restrictive of the liberty of a person, which may have been applicable in the case of his or her detention. The mere fact that an extraordinary situation or a state of emergency has been declared in the state as a result of a mass influx of aliens cannot in itself serve as a basis for applying in all cases the most stringent measure to all asylum seekers limiting their liberty, without assessing their individual situation and specific circumstances, the specific threat they pose to the values protected by the Constitution, to the interests of the state and society, where that measure, as mentioned above, because of its duration and nature, may be treated as detention.".

The LRC is also concerned about the detention practice in the FRC in Pabradė when newly arriving asylum seekers and migrants are arbitrarily detained in separate buildings for "quarantine" that may last an unspecified amount of time (according to the testimonies of some third country nationals, in some cases the "quarantine" may last for more than a week). The LRC personnel is not allowed to visit people in "quarantine" nor are there any specific legal safeguards in place to prevent arbitrary detention. The LRC observed that "quarantine" practice was expanded together with growing numbers of third country nationals coming from Latvia. According to the LRC information people are readmitted to Latvia without leaving "quarantine" zone, which raises concerns that this practice of placing people in "quarantine" is not related to any medical necessity but is used as a tool to arbitrarily detain in order to complete necessary readmission procedures. As there is not monitoring in the FRC "quarantine" zone, it is not known if the access to asylum procedure is not restricted.

The LRC is also aware that asylum seekers who cross the "green" border and who are not registered by the SBGS are detained without any individual decisions or recourse to a judicial remedy, but the LRC personnel does not have any access to such persons, nor we are informed how many or how long the third country nationals are detained in this way. In 2022 a third country national (who is currently pursuing legal action against the SBGS) and a group of other

¹⁸ 7 June 2023 Constitutional Court of the Republic of Lithuania ruling in the case *no KT53-A-N6/2023*, available at: <u>https://lrkt.lt/en/court-acts/search/170/ta2879/summary</u>





asylum seekers were *incommunicado* detained without any court or administrative decisions at the border area for 5 days.

The Lithuanian Seimas Ombudsperson issued a note on 5 October 2023 No 4D-2023/1-673 where it was concluded that a family with the minor child was unlawfully detained (without an individual administrative decision and recourse to a judicial remedy) after lodging an asylum application at the MD. In this case, a family whose residence permits expired had applied for asylum at the MD and after lodging their asylum applications, the persons were brought to the border area and detained by the SBGS for more than 48 hours period.¹⁹

The LRC is also aware of a practice regarding Belarus and Russian citizens who apply for asylum after their residence permits are annulled due to national security concerns (practice shows that person can be identified as a threat to the security due to various reasons like former employment at governmental institutions (e. g. accountant in railway station, employee of tax inspection, etc.) or answers to the special questionnaire according to which person identifies Crimea as part of Russian Federation). In these situations, asylum seekers are brought to the FRC and detained while the SBGS initiates court proceedings (it must be done in 48 hours). Usually, SBGS requests the court to apply alternative measures to detention by obligating the asylum seekers to periodically register with the SBGS, and it is usually granted by the court.

8. Procedures at first instance (including relevant changes in: the authority in charge, organisation of the process, interviews, evidence assessment, determination of international protection status, decision-making, timeframes, case management – including backlog management)

The Lithuanian Seimas Ombudsperson repeatedly found that the MD fails to issue decisions in time as required by the LLSF²⁰. The Lithuanian Seimas Ombudsperson also found that the MD failed to issue a decision in time when the asylum application was reviewed in the accelerated procedure²¹.

The MD started providing timeframes when they are planning to issue decisions (usually in annual quarters or a concrete date), however, the LRC identifies that given timeframes are frequently not followed, and people lack information about new possible dates when they can

¹⁹ Lithuanian Seimas Ombudsperson, Pažyma dėl X ir Y skundo prieš Migracijos departamentą prie Lietuvos Respublikos vidaus reikalų ministerijos ir Valstybės sienos apsaugos tarnybą prie vidaus reikalų ministerijos, 5 October 2023, available at <u>https://www.lrski.lt/documents/pazyma-del-x-ir-y-skundo-pries-migracijos-departamenta-prie-lietuvos-respublikos-vidaus-reikalu-ministerijos/</u>

²⁰ Lithuanian Seimas Ombudsperson, Pažyma dėl X skundo prieš Migracijos departamentą prie Lietuvos Respublikos vidaus reikalų ministerijos, 13 February 2023, available at: <u>https://www.lrski.lt/documents/pazyma-del-x-skundo-pries-migracijos-departamenta-prie-lietuvos-respublikos-vidaus-reikalu-ministerijos-8/;</u> Pažyma dėl X skundo prieš Migracijos departamentą prie Lietuvos Respublikos vidaus reikalų ministerijos, 13 March 2023, available at: <u>https://www.lrski.lt/documents/pazyma-del-x-skundo-pries-migracijos-departamenta-prie-lietuvos-respublikos-vidaus-reikalu-ministerijos-9/</u>; Pažyma dėl X skundo prieš Migracijos departamentą prie Lietuvos Respublikos vidaus reikalų ministerijos vidaus-reikalu-ministerijos, 27 April 2023, available at: https://www.lrski.lt/documents/pazyma-del-x-skundo-pries-migracijos-departamenta-prie-lietuvos-respublikos-vidaus-reikalu-ministerijos-9/; Pažyma dėl X skundo prieš Migracijos departamentą prie Lietuvos Respublikos vidaus reikalų ministerijos, 27 April 2023, available at: https://www.lrski.lt/documents/pazyma-del-x-skundo-pries-migracijos-departamenta-prie-lietuvos-respublikos-vidaus-reikalu-ministerijos, 27 April 2023, available at: https://www.lrski.lt/documents/pazyma-del-x-skundo-pries-migracijos-departamenta-prie-lietuvos-respublikos-vidaus-reikalu-ministerijos, 27 April 2023, available at: https://www.lrski.lt/documents/pazyma-del-x-skundo-pries-migracijos-departamenta-prie-lie

²¹ Lithuanian Seimas Ombudsperson, Pažyma dėl X skundo prieš Migracijos departamentą prie Lietuvos Respublikos vidaus reikalų ministerijos ir Valstybės sienos apsaugos tarnybos prie vidaus reikalų ministerijos, 5 October 2023, available at: <u>https://www.lrski.lt/documents/pazyma-del-x-ir-y-skundo-pries-migracijos-departamenta-prie-lietuvos-respublikos-vidaus-reikalu-ministerijos/</u>





expect their decisions on their asylum case. There are cases when asylum seekers do not receive decision for more than 18 months, even though legal regulation clearly sets that decision has to be issued within 6 months or within 3 months in case court returns to review it to the MD.

The MD states that they are not able to follow 6 months' time limit to review asylum cases due to migration crisis at the border with Belarus and mass influx of Ukrainian refugees, however, Vilnius district administrative court by its decision issued on 2 December 2022, case no. eI3-6341-979/2022, clearly stated that arguments of the MD are not serious enough and it cannot justify the delay of the decision in asylum case. On 16 August 2023 Lithuanian administrative supreme court issued decision²² which uphold the reasoning of Vilnius district administrative court.

9. Procedures at second instance (including organisation of the process, hearings, written procedures, timeframes, case management – including backlog management)

In 2021-2022, asylum cases were distributed to different regional courts to ensure an effective workload. Therefore, in 2023, due to a decrease in caseload, the previous practice was restored, and asylum cases are only assigned to the Vilnius district administrative court (which is specialized court working with asylum cases).

10. Availability and use of country of origin information (including organisation, methodology, products, databases, fact-finding missions, cooperation between stakeholders)

n/a

11. Issues of statelessness in the context of asylum (including identification and registration)

n/a

12. Vulnerable applicants (including definitions, special reception facilities, identification mechanisms/referrals, procedural standards, provision of information, age assessment, legal guardianship and foster care for unaccompanied and separated children)

From the summer 2023 increased movement of unaccompanied minors through the territory of Lithuania has been observed. Most of the time, minors arrive irregularly across the Belarus-Latvia border together with groups of adult foreigners. As a general practice, once minors are identified as unaccompanied, they are separated from the group of foreigners detained together and accommodated separately at SBGS border units. Some of the minors at the initial stage apply for asylum, some do not.

²² 2023 m. rugpjūčio 16 d. LIETUVOS VYRIAUSIAUSIOJO ADMINISTRACINIO TEISMO NUTARTIS administracinėje byloje Nr. eA-2137-575/2023 available at: <u>liteko.teismai.lt/viesasprendimupaieska/tekstas.aspx?id=6f000a19-4f12-4d4b-bae9-3c4577061d95</u>





In 2023 LRC monitors identified only one case where the best interests of the child (a person who has temporarily been treated as an unaccompanied minor as his parent was not able to take care of him) were not ensured or were delayed due to irregular arrival. Later the situation improved, and all further cases show that inter-institutional algorithm works properly. It should be noted that in 2023 The Office of the Ombudsperson of Child's Rights of the Republic of Lithuania has conducted several investigations on ensuring the rights and legitimate interests of unaccompanied foreign minors traveling through Lithuania and has identified systemic deficiencies related to non-compliance with the standards of protection of these children²³.

In practice, after identifying an unaccompanied minor, the State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour is informed and its representatives participate in migration procedures, monitor the response to the needs of unaccompanied minors and their referral to a further designated place of accommodation provided for by law – RRC in Rukla. In certain cases, some of the minors, who initially did not express their will to request asylum at first or were lacking information about such a possibility, finally decide to apply for asylum. It should be noted that unaccompanied foreign minors accommodated in RRC are not subject to restrictions on freedom of movement. Until 2023 November more than 20 unaccompanied foreign minors were registered.

SBGS seeks to transfer unaccompanied minors to Latvia on a basis of readmission, like other foreigners who entered the territory of the EU through Latvia. However, during the process of preparation most minors abscond. Primary screening shows that some minors might be victims of human trafficking. After absconding some of them contact the staff of the center and inform them that they reached other EU countries.

In 2023 there was a situation where a minor girl was separated from her brother who was detained in another center. The girl was registered as an asylum seeker, and later her brother also became an asylum seeker. However, brother continued to be detained, because technically he was not admitted to the Republic of Lithuania and accelerated procedure has been applied.

13. Content of protection (including access to social security, social assistance, health care, housing and other basic services; integration into the labour market; measures to enhance language skills; measures to improve attainment in schooling and/or the education system and/or vocational training)

In 2023 LRC conducted a thematic study²⁴, the aim of which was to identify the challenges of asylum seekers living on their own, in their chosen place of residence while waiting for asylum decisions issued by the MD. The data collected shows that the responsible state institutions do

²³ Vaiko teisių apsaugos kontrolierė pateikė rekomendacijas dėl nelydimų nepilnamečių užsieniečių, keliaujančių per Lietuvą, teisių užtikrinimo, 2023-08-08, The Office of the Ombudsperson of Child's Rights, available at: <u>http://vtaki.lt/lt/naujienos/vaiko-teisiu-apsaugos-kontroliere-pateike-rekomendacijas-del-nelydimu-nepilnameciu-uzsienieciu-keliaujanciu-per-lietuva-teisiu-uztikrinimo</u>

²⁴ Ataskaitą apie savarankiškai gyvenančių prieglobsčio prašytojų iššūkius laukiant sprendimų jų prieglobsčio bylose 2023, available at:

https://redcross.lt/wp-content/uploads/2022/09/GYVENANTYS-SAVO-PASIRINKTOJE-VIETOJE.pdf





not always or do not fully assess the circumstances in practice and there are not enough safeguards, which puts a certain part of asylum seekers at risk of being socially marginalized. In Lithuania, not all asylum seekers end up in accommodation centers designated by the institutions (FRC or RRC) during the asylum procedure. A significant number of them, for different reasons, make the decision to settle in their chosen place of residence, which usually appeals to a conscious desire to start an independent life in the country where a person requests asylum. However, because of unforeseen circumstances and/or incompletely structured processes and restrictive and inflexible legal regulations, the challenges of waiting for final decisions on the granting of asylum become complex and affect practically all essential areas of human life - work, sources of livelihood, access to services, movement, communication, orientation in an unfamiliar country, the opportunity to reconnect with family members, etc.

Taking into account the problematic aspects identified during the conducted research, a few priority matters stand out, which are recommended to pay attention to (1) insufficient access of asylum seekers living in their chosen place to the vulnerability assessment procedure; (2) insufficient information provision in the asylum process; (3) insufficient provision of social guarantees; (4) limited opportunities to open a bank account and perform banking operations (which is vital to find a job); (5) complicated employment opportunities; (6) threats to mental health.

14. Return of former applicants for international protection

n/a

15. Resettlement and humanitarian admission programmes (including EU Joint Resettlement Programme, national resettlement programme (UNHCR), National Humanitarian Admission Programme, private sponsorship programmes/schemes and ad hoc special programmes)

n/a

16. Relocation (ad hoc, emergency relocation; developments in activities organised under national schemes or on a bilateral basis)

In Lithuanian media it was actively discussed if authorities should take in 158 migrants or pay 3.18 million euros annually.²⁵

17. National jurisprudence on international protection in 2023 (please include a link to the relevant case law and/or submit cases to the EUAA Case Law Database)

Legal reviews of Lithuanian national jurisprudence prepared by LRC can be found following this link <u>https://redcross.lt/teisines-apzvalgos/</u>

18. Other important developments in 2023

²⁵ Lithuania ready to take in irregular migrants from Italy – PM - LRT, available at: https://www.lrt.lt/en/news-inenglish/19/2087576/lithuania-ready-to-take-in-irregular-migrants-from-italy-pm





Threat to the state security. From the end of November 2022, all national from former USSR countries (e. g. Russians, Belarusians, Ukrainians, etc.) applying for migration services (including lodging asylum application), are required to complete a questionnaire (see Annex 1) to provide certain information and express their attitudes on the war in Ukraine²⁶. This questionnaire is not available publicly, it is sent to each foreigner identifying that filling out is obligatory. The last two questions are related to situation in Ukraine:

- -Do you approve of the military actions by the Russian Federation on the territory of Ukraine? Please tick your answer:
- □ Taip /Yes / Да
- \square Ne / No / Het
- In your opinion, to whom Crimea legitimately (legally) belongs? Mark your answer:
- 🗆 Ukrainai / Ukraine/ Украине
- 🗆 Rusijos Federacijai / Russian Federation / Российской Федерации

If a foreigner marks that he/she supports military actions or that Crimea belongs to Russia, State security department, without any additional interviews, issues a conclusion that person is posing a threat to state security. Another reason to identify person as posing threat to the state security is information regarding his former employers or military service²⁷. If a foreigner was employed at governmental institution or company (e. g. accountant at railway company, civil servant at tax inspection), such circumstance is a ground for State security department to issue a conclusion identifying person as a threat to public security, even without additional interviews with a person. Jurisprudence regarding such evaluation varies (some examples can be found here https://redcross.lt/wp-content/uploads/2023/10/TEISINE-APZVALGA-11.pdf)²⁸. It has to be noted that there were situations when asylum seekers were excluded and did not receive asylum due to "incorrect" answers to the questionnaire. The case of Belarussian activist, who also was refused asylum due to threats to the state security, was widely covered by the media²⁹.

Family reunification of Russian citizens. On 23 April 2023 the Law establishing restrictive measures regarding military aggression against Ukraine (hereinafter - LRMAU) was signed. The LRMAU established that Russian citizens can no longer submit documents for residence permits or visas except in cases where the Ministry of Foreign Affairs of the Republic of Lithuania (hereinafter - Ministry of Foreign Affairs) or another authorised institution mediates

- https://www.delfi.lt/news/daily/lithuania/ukrainos-pajegose-kovojanciam-auksto-rango-baltarusiui-uzdrausta-atvykti-ilietuva.d?id=94195743
- ²⁸ Anketoje parašiusi, kad Krymas priklauso Rusijai, ukrainietė Lietuvos nepaliks: apgynė teismas | 15min.lt, available at: https://www.15min.lt/naujiena/aktualu/lietuva/anketoje-parasiusi-kad-krymas-priklauso-rusijai-ukrainiete-vos-neissiusta-islietuvos-apgyne-teismas-56-2088682
- ²⁹ <u>Ryšiais su Rusijos žvalgyba apkaltinta Karač: deportuokite mane i Baltarusija ir pažiūrėkite, kas bus DELFI, available at: https://www.delfi.lt/news/daily/lithuania/rysiais-su-rusijos-zvalgyba-apkaltinta-karac-deportuokite-mane-i-baltarusija-irpaziurekite-kas-bus.d?id=94261853</u>

²⁶ Lithuania identifies 2,000 threats in questionnaires for Russians, Belarusians - LRT; Security threat or arbitrary rejection? Belarusian exiles battle with Lithuania's migration policies - LRT, available at: https://www.lrt.lt/en/news-inenglish/19/1997874/security-threat-or-arbitrary-rejection-belarusian-exiles-battle-with-lithuania-s-migration-policies;

Russian applicants for Lithuanian visas will have to answer questions on Ukraine war - LRT ²⁷ Ukrainos pajėgose kovojančiam aukšto rango baltarusiui uždrausta atvykti į Lietuvą - DELFI, available at:





the submission of the visa and/or residence permit application. In practice it means that Russians citizens can apply only if they already have residence permit/visa issued by Lithuanian authorities, while, new residence permit/visa is issued only in very exceptional cases with additional mediation of certain institutions. Such regulation restricts possibility to apply for family reunification for asylum beneficiaries who have Russian citizenship.

LRC contacted the Ministry of Foreign Affairs, the MD and the Office of the Government of the Republic of Lithuania (hereinafter - the Office of the Government) requesting to provide information regarding institution which is authorised to mediate in family reunification cases for Russian citizens who received asylum. The MD and the Ministry of Foreign Affairs stated that they are not authorised to mediate in family reunification cases. The Office of the Government informed that it has not appointed a mediating institution in family reunification cases. In practice it means that family reunification for Russian citizens is almost impossible.

The Human Rights Monitoring Institute together with its partners Mental Health Perspectives has prepared a publication "Analytical study: the situation of migrants and asylum seekers in Lithuania", available at: <u>https://hrmi.lt/wp-content/uploads/2023/11/Analitine-studija-MPP-09.11.2023.pdf</u>

The substitute impact assessment of the European Commission's proposal for a regulation addressing situations of instrumentalisation in the field of migration and asylum which was requested by the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE) in the absence of a European Commission impact assessment accompanying the proposal also covers situation in Lithuania; available at: <u>https://cdn.ceps.eu/wp-content/uploads/2023/10/uZroNTo8-EPRS_STU2023753156_EN.pdf</u>

Radio story about two people – one guarding the border, the other crossing it illegally created by Sigita Vėgytė was named the Best Documentary at the influential Third Coast International Audio Festival in the United States. <u>I remember his look. The story of a soldier</u> and a migrant - LRT, available at: https://www.lrt.lt/en/news-in-english/19/2051890/i-remember-his-look-the-story-of-a-soldier-and-a-migrant

Part B: Publications

1. If available online, please provide links to relevant publications produced by your organisation in 2023

Monitoring reports – <u>https://redcross.lt/veiklos/prieglobscio-ir-migracijos-</u> programa/stebesena-2/

LRC advocacy documents - <u>https://redcross.lt/veiklos/prieglobscio-ir-migracijos-programa/advokacija/</u>

2.If not available online, please share your publications with us at: <u>Asylum.Report@euaa.europa.eu</u>



3.For publications that due to copyright issues cannot be easily shared, please provide references using the table below.

	Title of publication	Name of author	Publisher	Date
1				
2				
3				
4				
5				

Contact details

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