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**ON THE ROAD: UNACCOMPANIED  
MINORS IN LITHUANIA**

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## EXECUTIVE SUMMARY

This study, carried out under the European Migration Network (EMN) 2009 annual Work Programme, analyzes the scale, motives and issues related to arrival, stay and return to the country of origin of unaccompanied minors foreign nationals from third countries. The study evaluates their reception, return and integration policy and practice in Lithuania, reviews most common challenges, and provides ways to tackle them.

Legal status of unaccompanied minors in Lithuania started to be regulated by the law in 2004 when the Law on the Legal Status of Aliens was passed. The law distinguishes unaccompanied minors as a separate category of migrants. Later, Lithuania's membership in the European Union (EU) expedited the regulation of issues related to reception, integration and expulsion of unaccompanied minors as well as their adjustment to general principles of protecting unaccompanied minors applied in the EU. For a number of years, efforts were made to improve the practice of identifying, receiving, integrating and returning unaccompanied minors.

*Groups of unaccompanied minors:* The research has distinguished two groups of unaccompanied minors: unaccompanied minors seeking asylum and unaccompanied minors not seeking asylum. In the course of the research it was established that legal status of these groups and existing practice applied in their respect differs considerably. Status, reception, accommodation and return issues concerning unaccompanied minors seeking asylum are legally defined. Legal status and procedures applied in respect of unaccompanied minors not seeking asylum are not clearly defined. Insufficient legal regulation does not ensure proper protection of unaccompanied minors who do not seek asylum (for example, in order to expel them from the country, they can be detained in police custody), for this reason it is important to improve legal regulation, to clearly defined procedures applied to them (especially on the issue of their accommodation and expulsion/return).

*Statistics:* During 2000–2008, in Lithuania, there were 137 unaccompanied minors seeking asylum registered. Since 2001 there was a steady decline in trends observed. The majority of unaccompanied minors arrive in Lithuania from Russia Federation of Chechen nationality (56%), Afghanistan (17%), and Belarus (4.4%). Half of the arrivals are 16–18 years old and boys predominate. The majority of unaccompanied minors come to Lithuania driven by the fear of war and personal feeling of insecurity. Statistical data on unaccompanied minors not seeking asylum is not collected and throughout the research authors provide only fragmentary figures on this topic.

*Identification:* unaccompanied minors are most often identified by officers of the State Border Guard Service under the Ministry of the Interior (therein below SBGS) border check-points. When identifying and conducting primary questioning of unaccompanied minors at the border crossing, border guards might run into difficulties due to lack of interpreters, because border checkpoints are not supplied with necessary equipment and do not have specially trained officials, who could every time properly question unaccompanied minor. If unaccompanied minor is granted asylum procedure, these problems are resolved, because the Migration Department under the Ministry

of the Interior (therein below the Migration Department) has the possibility to conduct questioning in unaccompanied minors mother tongue, even using interpreters from other countries.

*Care:* The Law states that unaccompanied minors, from the moment they are identified, must be appointed a guardian who would represent minor's interests. The guardian must take care of the child throughout the whole period of his/her stay. In practice, an official guardian of unaccompanied minor is appointed only after (s)he settles in the Refugee Reception Center. During primary questioning, a guardian is not yet appointed. A staff member of the local Child's rights protection agency is invited to take part in the questioning. However, one can come across cases, when participation of a staff member is not ensured. If unaccompanied minor does not submit asylum application, the procedure of his/her expulsion is set in motion, (s)he is not appointed a guardian and his/her interests are not properly represented.

*Asylum procedure:* Asylum granting procedure in Lithuania is regulated and corresponds to the EU *acquis*. After receiving asylum application of an unaccompanied minor, the authorized institution – within 24 hours – collects necessary information and submits it to the Migration Department, which within 48 hours takes the decision on granting the unaccompanied minor an entry to the country. The Law foresees that unaccompanied minor seeking asylum cannot be denied an entry. Unaccompanied minors most often await the decision of the Migration Department at the border checkpoints or the Foreigners' Registration Center, which are not suitable for unaccompanied minors. Having established that asylum seeker is an unaccompanied minor, the Migration Department takes the decision to accommodate him/her at the Refugees' Reception Center. Later, the application of such unaccompanied minor to grant him/her protection is processed. The Law states that asylum application is processed up to 3 months, but applications of unaccompanied minors are processed faster. Until 2009 unaccompanied minors were granted subsidiary protection in Lithuania, that is, they were issued residence permit for 1 year with the possibility of extending it. Unaccompanied minors were never granted a refugee status in Lithuania.

*Accommodation:* Unaccompanied minors seeking asylum are accommodated at the Refugees' Reception Center. The Center has separate premises for accommodating unaccompanied minors, where up to 20 unaccompanied minors can reside at one time. During 2002–2008, there were 30 unaccompanied minors accommodated at the Center. One comes across cases when unaccompanied minors, whose age is difficult to establish, are also accommodated at the Foreigners' Registration Center, although it is not suitable for unaccompanied minors. The Law does not regulate the issue of accommodating unaccompanied minors not seeking asylum. They can be detained and accommodated at various institutions. Practice indicates that such unaccompanied minors most often are accommodated at the Foreigners Registration Center until they are expelled from the country.

*Detention:* the Law states that a foreign national who is younger than 18 years old, can be detained only in extreme case. However, detention of unaccompanied minors

not seeking asylum is a common practice in Lithuania. Unaccompanied minors most often are detained at the Foreigners' Registration Center or in police custody.

*Accommodation of unaccompanied minors in the Refugees' Reception Center:* unaccompanied minors accommodated at the Refugees Reception Center are provided with all necessary social, educational, and medical services. Unaccompanied minors granted any form of protection can live in the Center until they turn 18 years old. Unaccompanied minor is allocated 169 Lt (49EUR) monetary allowance for food and miscellaneous expenses. This sum is insufficient.

*Integration in municipalities:* State-sponsored integration in municipalities continues for twelve months. Later it is discontinued. This integration period is too short especially for individuals willing to continue their study in Lithuania.

*Return:* In Lithuania, the returns of unaccompanied minors are implemented according to general procedure, regardless of specific needs of unaccompanied minors. All returns/expulsions of minors is carried out by the state. Only formal efforts are put into verifying whether unaccompanied minor shall be properly cared for in the state, to which (s)he is being returned. Not a single unaccompanied minor was returned under voluntarily return programme.

*Reintegration:* Until 2009, reintegration of foreign nationals returned to the country of origin was not performed.

The research puts forward recommendations:

- To improve regulation of situation of unaccompanied minors not seeking asylum and define in legislation procedures applied to them and responsible institutions;
- Analyze the issue of correspondence between benefits allocated to minors and incurred minimal expenses;
- To improve return of unaccompanied minors asylum seekers and their integration (especially, identification of family members, proper evaluation of unaccompanied minor's care prospects in the country of return);
- To pay more attention to trainings of officers working with unaccompanied minors.

# 1. RESEARCH GOAL AND METHODOLOGY

The **goal of the research** is to analyze the scale, reasons for, and problems associated with granting of entry to Lithuania, stay in the country, and return to the country of origin of unaccompanied minors nationals of third countries; to assess the policy and practice of their reception, return, and integration in Lithuania; to identify most common challenges and propose ways to tackle them.

## **Goals of the research:**

- Assess legislation on reception, return and integration policy of unaccompanied minors in Lithuania, in the view of EU requirements;
- Establish reasons, routes, means of entry to Lithuania as well as countries of origin of unaccompanied minors;
- Identify problems associated with identification, reception, integration and return to the country of origin of unaccompanied minors;
- Drawing on best practices from other countries and having highlighted the shortcomings of the Lithuanian system, to formulate suggestions on how to better tackle identified issues.

**Research subject.** Taking into consideration Lithuanian national policy and practice, the research analyzes two groups of unaccompanied minors in Lithuania: unaccompanied minors seeking asylum and unaccompanied minors who are not seeking asylum in Lithuania.

**The term “unaccompanied minor”**, used in the research, corresponds to the term defined in 20 July 2001 Council Directive 2001/55/EC on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, Article 2 clause F, and comprises *third-country nationals or stateless persons below the age of eighteen, who arrive on the territory of the Member States unaccompanied by an adult responsible for them whether by law or custom, and for as long as they are not effectively taken into the care of such a person, or minors who are left unaccompanied after they have entered the territory of the Member States*. This definition does not include unaccompanied minors who are EU citizens. Lithuanian legislation in principle conforms to the definition provided in the Directive, that is, the law states that an **unaccompanied minor foreign national** is a foreign national under 18 years old, who entered the Republic of Lithuania without parents or other legal representatives or arrived accompanied by these individuals, but was left unaccompanied in the Republic of Lithuania.

**Research methodology.** Complex nature of the research problem led to the use of various data sources and adoption of a range of data collection methods. These consist of:

- Analytical overview of relevant Lithuanian and EU legislation;
- Analysis of statistical data;
- Overview of secondary sources and research on the topic of unaccompanied minors foreign nationals conducted by other organizations;

- Survey of experts. The authors surveyed a total of 19 experts from these institutions/agencies/organizations:
  - State Border Guard Service;
  - Migration Department;
  - State Border Guard Service Foreigners' Registration Center in Pabradė;
  - Ministry of Social Protection and Labor Refugees' Reception Center in Rukla;
  - Children's Rights Ombudsman Institution;
  - Municipal Child's Rights Protection Agencies;
  - Vilnius and Kaunas county Police Headquarters;
  - Non-governmental organizations: Lithuanian Red Cross society, Vilnius archdiocese Caritas, organization "Save the Children";
- Analysis of seven case studies of unaccompanied minors;
- In-depth interview of two unaccompanied minors.

In Lithuania, central records are kept only about unaccompanied minors seeking asylum. Data about unaccompanied minors, who do not seek asylum, is fragmented. There is no data available on reunification of unaccompanied minors with the family either. More detailed information about unaccompanied minors seeking asylum is being collected by Asylum section of the Migration Department. Information on unaccompanied minors seeking asylum recorded in there is of general nature and includes: personal data, what decisions were taken, what document was issued et cetera. RAIS (Refugees administration informational system) system, employed by the Refugees' Reception Center under the Ministry of Social Protection and Labor, stores the following data: personal data, date of arrival, course enrollment, date of departure, in which municipality the integration program takes place and et cetera. The Foreigners' Registration Center of the State Border Guard Service collects the following data: personal data, arrival and departure, decisions taken, photo and other. Data about unaccompanied asylum seekers who do not seek asylum were obtained from Vilnius and Kaunas county Police Headquarters.

The research was conducted in Lithuania in March – June 2009. The research was conducted under the European Migration Network 2009 Work Programme in cooperation with the International Organization for Migration (IOM) Vilnius office and the United Nations High Commissioner for Refugees (UNHCR) office in Lithuania.

## 2. OVERVIEW OF RESEARCH CONDUCTED BEFORE 2009

Although up until now there was no comprehensive and in-depth research conducted on the topic of unaccompanied minors foreign nationals in Lithuania, separate issues related to the phenomenon (legislation, conditions for reception, capacities of officials, others) have been examined. Below, we provide a short overview of the research and reports conducted before 2009 and their conclusions.

2000 Project “Minors in the Asylum process” of the International Organization for Migration, Finnish Immigration Department and EU “Odysseus” program “Children First”, whose participants included Lithuania, Poland, Finland and Ireland. The conclusion drawn by the project stated **the need to educate professionals**, engaged in asylum procedures. The conclusion also stated the need to educate staff members of Children Rights Protection Service, because they must acquire more knowledge about specific ethical and cultural issues involved in working with unaccompanied minors, as well as to instruct employees of the Migration Department and the Foreigners’ Registration Center, who conduct interviews with unaccompanied minors seeking asylum. **The shortage of qualified professionals capable of working with unaccompanied minors** was singled out as one of the most pressing problems related to unaccompanied minors seeking asylum in Lithuania.

In 2001 Lithuanian children rights protection non-governmental organization “Save the Children”, under the program “Separated children in Europe”, has conducted “Separated children: an assessment of foreign nationals’ situation in Lithuania”<sup>1</sup>. It was established that situation of unaccompanied minors has to be improved by raising awareness among representatives of the Parliament, Government, municipalities. Non-governmental organizations, working in the field of child rights protection should join their efforts, tackle the problem of unaccompanied minors in Lithuania more proactively and make an effort to influence responsible ministries and parliamentary groups to bring about an improvement in the current situation.

In 2005 Kaunas labor market training and consulting service was commissioned by the Refugees’ Reception Center to conduct the study “On preparation of unaccompanied minors seeking asylum for integration into labor market in Lithuania”. The study has been conducted under European Communities initiative EQUAL projects in Lithuania. 5 unaccompanied minors seeking asylum from Afghanistan, Pakistan, Russia (Chechnya) and Nigeria took part in the study. The study states that implementation of integration program in Lithuania revealed that prescribed period **of one year, during which refugees should integrate into social life of Lithuania, is not sufficient**. The biggest obstacle to adoption of new social environment, values and attitudes are social stereotypes and cultural norms “brought” from ones country of origin that come to constitute one of the most important ties, connecting a refugee to the past and native country and allowing him/her to preserve own identity. The study concludes that data obtained in the course of the research allows one to claim that although all particip-

<sup>1</sup> The National Report prepared and published in Vilnius in 2001, assessment period 1997–2000.

ants of the research belong to one category according to their age (14–18 year old teenagers), their biographical data, education, level of social maturity and skills, knowledge of language and ability to communicate as well as their goals and motivation differ to a considerable extent. For this reason, when selecting methodology for assessing their general skills level, personal character traits, professional interests and motivation, **it is necessary to adopt individual approach:** researcher must take into account nationality, language proficiency, education (or lack thereof), capacity/lack of for communication, ability to understand instruction as well as emotional state of a respondent.

*March 17, 2006 UN Child's Rights Committee, which monitors the implementation of the Convention on the Rights of the Children, report* notes that the principle of child's best interest is often embodied in Lithuanian legislation, however it is not implemented in practice in all areas concerning children, including detention of children seeking asylum. The Committee has recommended that the Government must ensure that the principle of child's best interest must be understood, integrated and implemented in all legal documents, also in making court rulings and taking administrative decisions, implementing projects and programs. The Committee has expressed its concern that in many cases foster care in Lithuania is institutionalized. It has also expressed its concern about the conditions of receiving asylum seekers and cases when **children were detained in Lithuania and kept in custody together with adult migrants.** The Committee's report has made recommendations to improve the conditions of receiving children, to ensure that children, including unaccompanied ones, would not be detained, and to create educational courses about principles and provisions of the Convention on the Rights of the Child for police, border guard service, courts and consider recommendation passed in 2005 on working with unaccompanied children foreign nationals. The number of child victims of human trafficking (from Lithuania) also gave cause for concern, therefore the Committee has recommended establishing foster homes for victims of human trafficking. The Committee regretted the fact that children in Lithuania can be detained for long periods of time at police institutions and detention centers. The Committee has recommended **to introduce specialization on child issues in courts,** to conduct systemic trainings of judges, also educate guardians, law-enforcement institutions and social workers as well as ensure that minors, who have not reached 18 years old, would suffer limitation of freedom of movement only in extreme cases and for the shortest possible period<sup>2</sup>.

*In 2006 The Institution of Child Rights Ombudsman, in the course of the research on the conditions of receiving children asylum seekers in Lithuania,* has established that it is necessary to ensure application of the principle of the child's best interest and guarantees from unwarranted detention. The Migration Department services and State Border Guard Services must **consider possibilities of alternatives to detention,** they must hold regular trainings for officers of Migration department services and State Border Guard Service on the principles of the Convention of the Rights of the Child, emphasizing protection from unlawful or unwarranted detention. The research drew a conclusion that all unaccompanied children identified on the territory of Lithuania

<sup>2</sup> Children's Rights Committee 17 March 2006 Report on Lithuania concerning the Convention of the Rights of the Child CRC/C/LTU/CO/2 (in English)

have to be immediately accommodated in a social care institution, where they would be provided with necessary social and psychological help, while all measures related to establishment of legal status, must be performed only after the issues of residence and provision of social assistance have been resolved. The Ombudsman's institution has established that it is necessary to resolve the issue of accommodating unaccompanied minors who did not file asylum application and that such children could also be accommodated in the Refugees' Reception Center<sup>3</sup>.

*The National report, commissioned by the European Commission to "Odysseus" academic network, in discussing the implementation of the reception directive in Lithuania<sup>4</sup>, states that there are practical problems related to accommodation of unaccompanied minors, who did not lodge their asylum application, since responsible institutions refuse to take care of such teenagers if they are not asylum seekers. These children deserve a special attention because practical procedures employed by migration services **run into obstacles, when teenagers fail to lodge an asylum application.***

*In 2007, in implementing European Commission program DAPHNE II project "Unaccompanied minors: defense mechanisms in the enlarged European Union" Florence university (University degli Studi di Firenze) has prepared a national report on Lithuania. The report indicates that with a sudden increase of unaccompanied children, conditions of receiving unaccompanied minors in Lithuania would be inadequate. Under the EU standards, specialized centers must be created for children, especially those children that have not yet reached 14 years. In the opinion of UNHCR coordinator in Lithuania, when a child is identified within a country, first of all **his social needs should be addressed – food, accommodation, health care, social assistance and foster care, legal issues should be addressed only afterwards.** In practice, this is not the case and usually the resolution of legal issues takes precedence. Children first have to apply for asylum and only then are accommodated in the Refugees' Reception Centre. If an unaccompanied minor does not apply for asylum, for example, (s)he does not know that such procedure exists or does not know whom to approach, data about such child is not collected. The report notes that upon receiving Lithuanian residence permit, unaccompanied children often remain in the Refugees' Reception Center; however, they should be placed under different long-term measures, because the Refugees' Reception Center is far from the city. Besides, there are many people in the need of social assistance residing here.*

*The authors of 2008 publication "Children's' rights protection system in Lithuania"<sup>5</sup> devote a lot of attention to describing functions of institutions working the area of children's rights protection and to general efforts to improve children's rights protection system nationwide. The authors state that the principle of child's rights and preferential status of his/her lawful interests, one of the main principles of the child's rights protection, demands that in passing legislation, implementing it in practice and in addressing questions that are not regulated by legal acts, a decision or any other action should*

<sup>3</sup> The website of the Children Rights Ombudsman Institution [www3.lrs.lt/pls/inter/vaikai](http://www3.lrs.lt/pls/inter/vaikai)

<sup>4</sup> The National Report was prepared by Lyra Jakulevičienė, Mykolas Riomeris University, English language text [http://ec.europa.eu/justice\\_home/doc\\_centre/asylum/studies/docs/lithuania\\_2007\\_en.pdf](http://ec.europa.eu/justice_home/doc_centre/asylum/studies/docs/lithuania_2007_en.pdf)

<sup>5</sup> Rimantė Šalaševičiūtė, Eivilė Žemaitytė, 2008, in Lithuanian, English, and Russian

always be assessed from the perspective of child's interests and it must be ensured that they are not violated.

*In 2008, US State Department report on human trafficking situation in Lithuania in 2008* notes that it is necessary to organize more **trainings for law-enforcement agencies on the topic of fighting human trafficking, especially among teenagers**, to improve cooperation with non-governmental organizations, especially in big cities.

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In summing up the results of the research and analytical surveys conducted in 2000–2008, one can see that a number of different level problems were distinguished in tackling issues related to unaccompanied minors in Lithuania:

1. On the political level, the issue of unaccompanied minors is not considered to be important. It is necessary to raise this issue on the political level; non-governmental organizations should take on a more assertive role to this effect.

2. On the practical level, researchers first of all point to the lack of qualified professionals to work with unaccompanied minors; they state the need for specialized trainings.

3. Research papers and reports call on readers to consider the application of alternatives to detention for unaccompanied minors; they draw attention to inappropriate accommodation conditions provided to unaccompanied minors at the Foreigners' Registration Center.

4. More attention should be given to unaccompanied minors not seeking asylum; there should be clearly stated procedures and responsible institutions, which are put in charge of resolving issues related to such unaccompanied minors.

5. In resolving issues of unaccompanied minors, first of all it is necessary to provide social assistance and foster care, only later to address legal issues. Besides, it is recommended to introduce specialized courts for children issues.

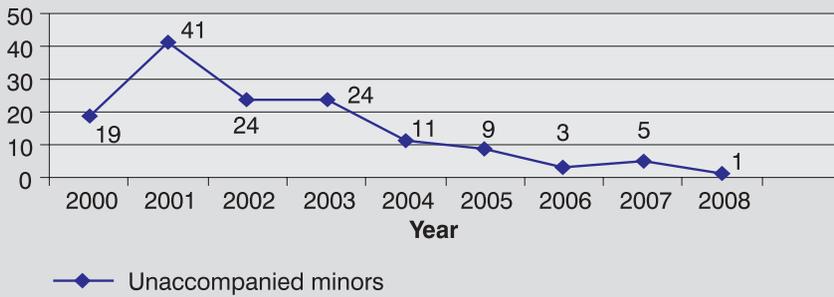
6. General integration process and its duration (1 year) is not sufficient to integrate an unaccompanied minor into Lithuanian society and prepare him/her to join the labor market. In each case, it is necessary to prepare an unaccompanied minor individually for these steps.

As one can see, the research conducted earlier has already identified several shortcomings in reception, identification, integration of unaccompanied minors, yet recommendations for tackling these shortcomings are of general nature (to improve, train, draw attention to certain things and so on), and as a result many of the identified problems persist until today. For this reason, the present research aims to formulate more specific recommendations and to foresee ways to implement them. It is also necessary to carefully monitor how these recommendations are implemented.

### 3. UNACCOMPANIED MINORS IN LITHUANIA: NUMBERS AND REASONS FOR ENTRY

There are few identified cases of unaccompanied minors arriving in Lithuania. In the period from 2000 to 2008, there were identified 137 unaccompanied minors asylum seekers. From 2001, the year with the biggest number of unaccompanied minors (41), one observes a steady decline in trends, with the result that in 2008 there was registered only one case of unaccompanied minor asylum seeker (see illustration 1).

**Illustration 1. Unaccompanied minors asylum seekers in Lithuania in 2000–2008**



Source: Data of the Migration Department

It is difficult to distinguish with certainty countries from where unaccompanied minors arrive in Lithuania, since they change over time. However, in summing up 2000–2008 period one can draw a conclusion that, after all, the majority of unaccompanied minors who sought asylum in Lithuania arrived from Russia (Chechnya) (56%) – due to insecure situation in the country of origin, and from Afghanistan (17%). Among other countries of origin the bulk is made up of former USSR republics: Belarus (4.4%), Uzbekistan (3%), Ukraine, and Georgia. There are some isolated instances of minors arriving from more distant places – South-East Asia or Africa (see table 1). Although the absolute majority of unaccompanied minors arrive from territories where armed conflicts took place/ take place, yet there were no unaccompanied minors who participated in armed conflicts registered in Lithuania<sup>6</sup>.

**Table 1. Countries of origin of unaccompanied minors 2000–2008**

Country	Number	Percentage
Afghanistan	23	16.8
Armenia	1	0.7
Latvia	1	0.7
Belarus	6	4.4
Estonia	1	0.7
Georgia	2	1.5

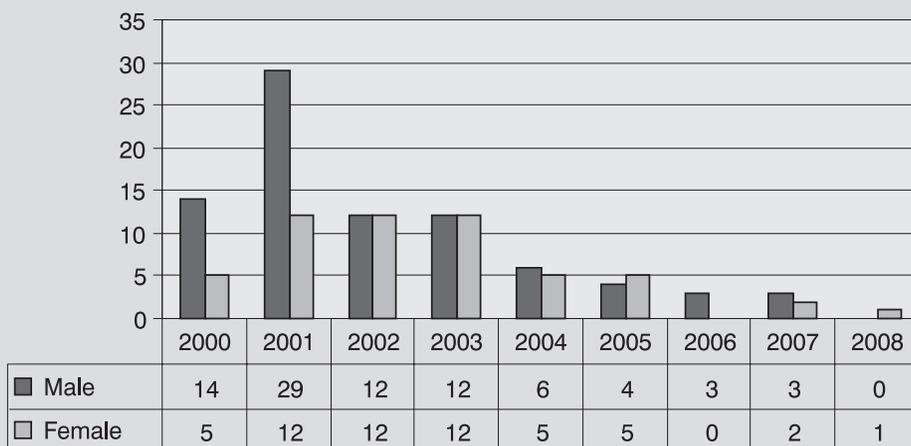
<sup>6</sup> Coalition to Stop the Use of Child Soldiers, Child Soldiers Global Report 2008, [www.unhcr.org/refworld/docid/486cb114c.html](http://www.unhcr.org/refworld/docid/486cb114c.html)

Nigeria	3	2.2
Pakistan	3	2.2
Russia	77	56.2
Sri Lanka	2	1.5
Ukraine	2	1.5
Uzbekistan	4	2.9
Vietnam	1	0.7
Congo Democratic Republic	1	0.7
Without citizenship	10	7.3
Total	137	100

Source: The Migration Department

Until 2002, the majority of unaccompanied minors were boys (more than 70%), later breakdown according to gender became evenly split. Still, if one would consider the whole period beginning with 2000, Lithuania has received almost one and a half times more boys than girls (see illustration 2).

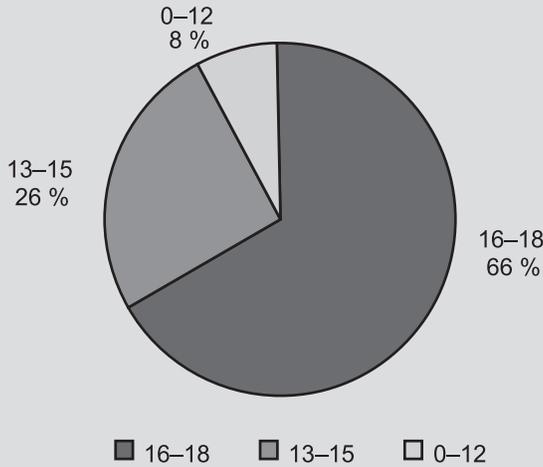
**Illustration 2. Unaccompanied minors asylum seekers according to gender in 2000–2008**



Source: The Migration Department

The majority of unaccompanied minors arriving in Lithuania are 16–18 years old (66%), around quarter is made up of 14–15 years old teenagers. 8% of all unaccompanied minors are children below 13 years old (see illustration 3).

**Illustration 3. Unaccompanied minors asylum seekers according to age groups in 2000–2008.**



Source: The Migration Department

It is complicated to establish general reasons for entry to Lithuania among unaccompanied minors due to the fact there are few such migrants/foreign nationals and because reasons themselves are very varied; often arrival is precipitated not by one, but several interconnected reasons. Frequently, Lithuania is not the primary country of destination, but rather a transition stop on a route, so the reasons for departing from the country of origin and arriving in Lithuania are different. Still, the most frequent reason for departure is fear of war, feeling of personal insecurity. Although it is impossible to provide precise quantitative assessment of reasons, below are provided the most often cited reasons:

- Armed conflict taking place in the country / insecurity;
- Unstable political situation in the country, danger of persecution, revenge;
- Personal insecurity due to family traditions;
- Violence / sexual exploitation;
- Bad economic conditions in the country of origin / poverty;
- Family reunification;
- Transit (traveled to “Europe”);
- Returned from another EU country under the Dublin convention.

There are no records collected on unaccompanied minors foreign nationals, who did not apply for asylum in Lithuania. The State Border Guard Service does not register separately the cases of unaccompanied minors. In cases when entry to Lithuania is refused, only the total number of citizens of a particular state who were refused an entry is recorded, data on gender and age of a person is not collected, thus there is no possibility to analyze data on entry/refusal among unaccompanied minors in Lithuania. In Lithuania, it is also impossible to establish, how many children EU citizens traveled to /through Lithuania and compare this data with unaccompanied minors citizens of third countries in Lithuania. Such data is not collected.

## 4. ENTRY PROCEDURES AND BORDER CONTROL

### 4.1. GENERAL REQUIREMENTS FOR LEGAL ENTRY TO THE REPUBLIC OF LITHUANIA FOR UNACCOMPANIED MINORS

#### *Legal framework*

Conditions of entry to Lithuania for all foreign nationals, including unaccompanied minors foreign nationals, are regulated by the law On the legal status of Aliens<sup>7</sup> and provisions of *acquis* transferred into legislation.

Article 5 of the Law states that foreign nationals entering and departing from the Republic of Lithuania, are subject to provisions of 15 March 2006 Regulation of the European Parliament and of the Council (EC) No. 562/2006, therein below – the Schengen Borders Code<sup>8</sup>. Since Lithuania became a full-fledged member of the Schengen space on 30 March 2008, the Law and Schengen Border Code became the principal legal acts defining entry of individuals, including unaccompanied minors, to the Republic of Lithuania.

Citizens of third countries, including unaccompanied minors, can enter and travel throughout the territories of Member States, subject to all Schengen provisions, not longer than 3 months, if upon entry they fulfill the following conditions stated in the Schengen *acquis*:

- posses a valid travel document;
- posses a short-term visa, if it is required;
- can explain the purpose of their journey;
- can prove that they have enough funds to cover living expenses for the period of stay and to return to home country;
- are not included in Schengen information system as persona non grata or person posing a threat to public order or national security of any Schengen country.

<sup>7</sup> The Law on the Legal Status of Aliens of the Republic of Lithuania (Žin., 2004, Nr. 73-2539)

<sup>8</sup> The Schengen Border Code in Lithuanian

[http://eur-lex.europa.eu/LexUriServ/site/lt/oj/2006/l\\_105/l\\_10520060413lt00010032.pdf](http://eur-lex.europa.eu/LexUriServ/site/lt/oj/2006/l_105/l_10520060413lt00010032.pdf), The Schengen or Schengen space is a territory of States, parties of the Schengen Agreement. This space is special for the reason that its external border is closely guarded, while control of internal borders within the space is abolished. Security in the Schengen space is ensured through enhanced control of external borders, increasingly intensive cooperation among state border guard services, police of Schengen States, legal cooperation, implementation of the Common Schengen States' visa policy, and functioning of the Schengen information system. EU Council of Justice, Interior ministries 6 December 2007 decision approved accession of 9 EU States – Lithuania, Latvia, Czech Republic, Estonia, Poland, Malta, Slovakia, Hungary, Slovenia – to the Schengen space. On 21 December 2007, these 9 states abolished the control of EU internal land borders.

Switzerland joined the Schengen in December 2008. Currently, the Schengen space consists of 25 States: 22 EU Members – Austria, Belgium, Denmark, Greece, Spain, Italy, Luxemburg, the Netherlands, Portugal, France, Finland, Sweden, Germany, Lithuania, Latvia, Czech Republic, Estonia, Poland, Malta, Slovakia, Hungary, Slovenia – and 3 non-EU States: Norway, Iceland, and Switzerland. Citizens of 25 States belonging to this space have equal rights to travel without visas and without border control. EU States Ireland, the United Kingdom and Cyprus are not members of the Schengen. The United Kingdom and Ireland still conduct control of borders with other EU Member States; however, they are authorized to apply certain measures related to police and legal cooperation in criminal cases. States parties of the Schengen Agreement conduct common visa policy. Within the Schengen space a common visa is used. This means that a person wishing to travel throughout the Schengen space needs only one visa. For the first day of membership in the Schengen, all Lithuanian visa services issue Schengen visas, conduct inquiries in Schengen information system (SISone4all), including consultations on Schengen visas in VISION system.

Third country nationals planning to stay in a country for a period longer than 3 months, must obtain a long-term (D category) national country visa or residence permit. All these requirements are also applicable to unaccompanied minors foreign nationals.

The Schengen Border Code includes special provisions on entry of minors. The Code states that state border guard officers should devote more attention to minors who travel accompanied or unaccompanied by adults, although upon entry they are examined in the same way as adult foreign nationals. If minors are accompanied by adults, state border guard officer must examine whether the individual accompanying minors has parental foster care rights, especially in cases when minors are accompanied by only one individual and there is serious ground for suspecting that they could have been unlawfully separated from the person who has lawful parental foster care rights. In this case, border guard must carry out further inspection in order to establish whether provided information contains misrepresentations or contradictions.

A person can be refused an entry into Lithuania only according to provisions of the Schengen Border Code. A foreign national can be refused an entry into Lithuania if:

- (s)he does not possess a valid travel document;
- (s)he does not possess a short-term visa, if it is required;
- (s)he cannot explain the purpose of his/her journey;
- (s)he cannot prove that he/she has enough funds to cover living expenses during the stay and to return to home country;
- (s)he is included in the Schengen information system as a persona non grata or a person who poses threat to public order or national security of any Schengen country.

The Law states that unaccompanied minor seeking asylum must be granted an entry into country, i.e. **the Law does not foresee conditions for refusing an entry to the Republic of Lithuania to an unaccompanied minor seeking asylum.** However, if an unaccompanied minor does not lodge an application for asylum, (s)he can be refused an entry into country and returned from the border to the country of departure.

### *Institutions*

According to provisions of the Law, general control of foreign nationals entering Lithuania, including unaccompanied minors, is conducted by the State Border Guard Service in cooperation with other Lithuanian state institutions and agencies, foreign state institutions and international organizations. The Law authorizes the Service to take decisions on granting an entry to the territory of the Republic of Lithuania to foreign nationals.

### *Practice*

The Republic of Lithuania has land external EU borders with third countries: with Belarus and the Russian Federation (Kaliningrad district). Borders with Latvia and Poland are internal EU borders.

A small number of unaccompanied minors enter Lithuania by crossing external borders. Such small number of minors can be explained by strict control



of minors departing a country and control conducted by carriers in third countries, such as Russia, Belarus, and Ukraine.

In practice, entry of unaccompanied minors to the Republic of Lithuania is governed by general provisions of the Schengen *acquis*. A foreign national, also an unaccompanied minor, wishing to travel throughout the Schengen space needs only one visa. Lithuania, from the first day of membership in the Schengen, issues general short-term visas suitable for travel to the Schengen territory, while foreign nationals already in possession of valid visas issued by other Schengen partners have the right to be present throughout the whole Schengen territory, including Lithuania, for the period of validity indicated in visa<sup>9</sup>.

In practice, one comes across cases when unaccompanied minors who are not seeking asylum are returned from the border. Such practice does not correspond to child's best interests, because among returned minors there might be minors who need protection, but who are not capable to lodge asylum application by themselves.

### *Statistics*

Statistical data on unaccompanied minors lawfully entering Lithuania is not collected. The State Border Guard Service collects only general data on entry into the Republic of Lithuania; unaccompanied minors are not distinguished in this data.

### *Conclusions*

- Lithuanian legal acts and practice in principle correspond to EU requirements applicable to entry to the Republic of Lithuania.
- Unaccompanied minors are not distinguished from other foreign nationals and they are subject to general Schengen requirements on lawful entry to the Schengen space. However, border guards devote more attention to entering minors.
- No separate data is collected on entry to Lithuania of unaccompanied minors not seeking asylum.
- If an unaccompanied minor does not fulfill the requirements of lawful entry and does not lodge an application for asylum (s)he can be refused an entry into country. If an unaccompanied minor seeks asylum, (s)he must be allowed into the Republic of Lithuania.

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<sup>9</sup> Schengen Agreement States apply uniform visa issue procedure, taking into account each others interests, identical requirements for application documents, apply the same fee for processing of visa application. For this reason, visa issued in one Schengen Member State is also valid in all other Member States. This circumstance is especially beneficial for nationals of third countries wishing to visit several Schengen Member States. In exceptional cases, individuals who do not fulfill common visa issue requirements can be issued a national visa by a Schengen Member State valid only in that state. Such cases can be related to humanitarian, national interests or the need to fulfill international obligations. To obtain a visa, third country nationals must approach a representation of the state they wish to travel to. A fee for processing of Schengen visa application is set by 1 June 2006 EU Council 2006 decision 2006/440/EC. According to this decision, visa fee is 60 Euros. The Council decision and other EU legal acts also foresee fee waivers. Fee is waived for children below 6 years old, school children, students together with accompanying teachers, lectures, traveling for study purposes.

## **4.2. IDENTIFICATION OF UNACCOMPANIED MINORS FOREIGN NATIONALS AND UNACCOMPANIED MINORS SEEKING ASYLUM**

### *Legal framework*

The Law defines general principles of establishing the identity of foreign nationals<sup>10</sup>, which are applicable to all foreign nationals, without distinguishing unaccompanied minors as a separate group. To establish the identity of an unaccompanied minor, officials have the right to take temporarily foreign national's travel document, travel tickets, other documents (if a foreigner has them); the Law also foresees the possibility of examining and inspecting an individual and his/her personal belongings. Data obtained from a detained foreign national, including an unaccompanied minor, can be transferred to the country of origin to establish his/her identity, except for asylum seekers, in whose case it is forbidden to approach the country of origin.

To establish his/her identity, a foreign national, including an unaccompanied minor, is being photographed and his/her fingerprints are taken<sup>11</sup> on the following occasions:

- 1) (s)he lodges an application for asylum in the Republic of Lithuania;
- 2) (s)he is detained for illegal entry to the Republic of Lithuania, stay in the country, transit travel or departure from the Republic of Lithuania;
- 3) (s)he is sent out from the Republic of Lithuania or being returned to a foreign country.

The Law also foresees additional possibilities for identification, which can be invoked when needed:

- deoxyribonucleic acid (DNA) test, if there is a need to verify family ties in the case of family reunification and there are no other ways to establish family ties;
- age verification test, if there are justified doubts about the age of a foreign national, when (s)he applies for a residence permit or an asylum. Age verification test can only be performed with consent from a foreign national, whose age is verified. If it is necessary to establish the age of a minor foreign national, the test is performed only with consent from his/her parents, other legal representatives or a temporary guardian. If a foreign national seeking asylum in the Republic of Lithuania does not agree to undergo age verification test and there are no valid grounds for this refusal, such actions are interpreted as procrastination of the investigation or fraud and the application for asylum can be found lacking a basis. The costs of age verification test are covered by a foreign national, except for asylum seekers, whose test costs are covered by the Republic of Lithuania. There are no foreseen exceptions for unaccompanied minors.

### *Practice*

In practice, the main action performed in identifying an unaccompanied minor foreign national in Lithuania is questioning, during which officials establish his/her personal data, location of other family members, the purpose of entry to Lithuania. A guardian (custodian) of an unaccompanied minor should take part in questioning. Usually, it is

<sup>10</sup> Art.120-123 of the Law on the Legal Status of Aliens.

<sup>11</sup> Fingerprints are registered by the unit of the Ministry of the Interior (the Forensic Science Center).The data is processed in accordance with the requirements of the Law on legal protection of personal data.

represented by a staff member of municipal child's rights protection agency. Cases, when these representatives are not invited to questioning or do not show up for a number of reasons, are still frequent. Questioning should be carried out by a border guard or local migration service official trained to work with minors, yet, in Lithuania, there are no specialized trainings organized for officers on the topic of unaccompanied minors.

Often, in questioning unaccompanied minors on the border or within country's territory, officials need interpreters. The issue of interpreters participating in questioning of unaccompanied minors seeking asylum has been resolved in the asylum procedure. The Migration Department has the right to carry out a questioning of asylum seekers while cooperating with interpreters present in other states, using video equipment. However, border guard officers or police institution, where unaccompanied minors might appear, do not have such possibilities. Officials of these institutions must themselves find interpreters. Border or police unit also has to ensure the participation of interpreter in the case of dealing with an unaccompanied minor who does not seek asylum. Because of that, in certain cases, in order to question an unaccompanied minor with an interpreter, (s)he can be directed to undergo asylum procedure, because there are no possibilities to clarify the reasons given by an unaccompanied minor. Such practice can overload asylum procedure and therefore needs to be improved.

There are very few unaccompanied minors entering Lithuania, therefore, in the opinion of UNHCR coordinator in Lithuania, all unaccompanied minors should be directed to undergo asylum procedure: this way, minors' problems – would be addressed in the best way. Once the needs of an unaccompanied minor are properly clarified, his/her legal status and other related questions would be addressed.

Age verification test used to identify an unaccompanied minor is more of an exceptional measure rather than everyday practice. There are only two known cases, when age verification test was performed: it was performed once individuals were allowed into the territory of the Republic of Lithuania under asylum procedure. There are no known cases, when such test would be performed on the border during the procedure of entering the country.

If a foreign national seeking asylum in the Republic of Lithuania does not agree to undergo age verification test and there are no justified reasons for that, such behavior is interpreted as procrastination of investigation or fraud and asylum application can be dismissed. The Law foresees no exceptions for unaccompanied minors. In practice, it is not clear, what would be the consequences of a refusal to undergo age verification test in cases, when there are suspicions that a person is an adult, but claims to be a minor.

There was not a single case in Lithuania, when an unaccompanied minor would undergo a DNA test.

### *Conclusions*

- In practice, there is danger that interests of unaccompanied minors can be violated during identification and primary questioning, because there are no special stipulations applied to unaccompanied minors. Also, one comes across cases, when during the primary questioning, minor's interests are not represented by a guardian.

- There are no trainings on specific issues of working with unaccompanied minors organized for officers carrying out identification and questioning.
- In order to identify properly primary arrival motives and needs of unaccompanied minors, it is necessary to resolve the issue of interpreters' participation in primary questionings at border check points or in territorial police institutions / migration services.

#### *Recommendations*

- *To organize trainings or qualification raising courses on the topic of work with unaccompanied minors for border guards, who most often meet them.*
- *To resolve the issue of supplying border units and migration services with qualified interpreters for participation in primary questioning.*

### **4.3. ASYLUM PROCEDURE USED FOR UNACCOMPANIED MINORS SEEKING ASYLUM**

#### *Legal framework*

Procedures used for unaccompanied minors seeking asylum are thoroughly defined in the Law and the accompanying legal acts on processing of asylum applications. General procedure of granting asylum in Lithuania is defined in Article 67 of the Law. This procedure is also applied to unaccompanied minors seeking asylum.

*Lodging of application.* An application for refugee status or subsidiary protection in the Republic of Lithuania may be submitted:

- at the border crossing points or to the State Border Guard Service;
- to the territorial police agency;
- to the Foreigners' Registration Centre.

Application can be lodged in writing or orally. Application lodged orally is transcribed. Legislation does not stipulate in which language one should lodge an application.

*Questioning.* An authorized civil servant from a state institution or agency, to which the asylum application has been lodged, within 24 hours from the moment of lodging an application must:

- indicate in the asylum application or in a transcript of such request, if application was not lodged in writing, the date, time, and place of its submission;
- collect all the available documents and travel tickets of the asylum seeker;
- carry out inspection of the asylum seeker's person and his personal belongings;
- question the asylum seeker;
- take the fingerprints of the asylum seeker and check in EURODAC system whether an unaccompanied minor has arrived from other EU state, responsible for processing his/her application, (applicable to unaccompanied minors of 14 years old and older<sup>12</sup>);
- take pictures of the asylum seeker;

<sup>12</sup> Fingerprints of an asylum seeker below 14 years old are taken if there are justified doubts about his/her age.

- to establish if there is a basis for applying criteria indicated in the EU Council regulation (EC) No. 343/2003 Articles 4–8, which define cases, when other EU state is responsible for processing asylum application<sup>13</sup>.

Civil servants processing asylum applications of unaccompanied minors must approach various institutions within the Republic of Lithuania or abroad, except for asylum seekers' country of origin institutions, to establish the location of parents or other close relatives of identified unaccompanied minors, if that does not contradict child's best interests.

The Law states that institutions involved in the procedure of granting asylum must cooperate with non-governmental organizations providing assistance to refugees by giving them an opportunity to meet asylum seekers belonging to the group of especially vulnerable individuals at the location of their accommodation or detention and to provide them with services and assistance corresponding to their needs.

The Law does not foresee additional procedural guarantees for asylum seekers who are unaccompanied minors; however, such guarantees are defined in asylum application processing procedure approved by the Minister of the Interior<sup>14</sup>. The procedure classifies unaccompanied minors as especially vulnerable individuals. The procedure foresees that in carrying out questioning and other actions related to processing of asylum applications of unaccompanied minors, there must be present child's guardian (curator) or an authorized representative, except for cases, when an authorized representative cannot be present during questioning for objective reasons beyond his/her control. In practice, a lawyer commissioned to provide legal services to asylum seeker and representing interests of an unaccompanied minor and a representative of the territorial child's rights protection agency are present during primary questioning session.

*The decision of the Migration Department.* All collected information is sent to the Migration Department, which within 48 hours takes a decision on allowing an unaccompanied minor to the territory of the state. The Law states that unaccompanied minors seeking asylum, differently from other foreign nationals, must be allowed into the country even if they arrived from a safe third country. Having taken the decision to allow a minor into the country, the Migration Department issues him/her with a temporary document – foreign national's registration certificate. Documents are issued to all asylum seekers, regardless of their age.

Having taken the decision on allowing an unaccompanied minor seeking asylum to Lithuania and accommodating an unaccompanied minor, the Migration Department carries out an investigation with an aim to establish if an unaccompanied minor fulfils the criteria of establishing refugee status, that is whether (s)he owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country or who, not having a nationality and being outside the country of his former

<sup>13</sup> Criteria are applied directly in the order set by Chapter III of the Council regulation (EC) No. 343/2003 or Articles 4–8 of the Dublin Convention.

<sup>14</sup> Description "On the procedure of processing, taking decisions and implementing foreign nationals' asylum applications" approved by 15 November 2004 order Nr.1V-361 of the Minister of the Interior .[http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc\\_bin?p\\_id=245530](http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_bin?p_id=245530)

habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it<sup>15</sup>. Officials also consider whether there is a basis for to grant subsidiary protection. Such protection is granted in Lithuania, if asylum seeker is outside the country of his origin and is unable to return there owing to well-founded fear that:

1) (s)he will be tortured, subjected to cruel, inhuman or degrading treatment or punishment;

2) there is a threat that his/her human rights and fundamental freedoms will be violated;

3) his/her life, health, safety or freedom is under threat as a result of endemic violence which spread in an armed conflict or which has placed him/her at serious risk of systematic violation of his/her human rights<sup>16</sup>.

The decision on legal status of an unaccompanied minor – to grant asylum, subsidiary protection or to decline and send him/her out of Lithuania – is taken within 3 months<sup>17</sup>. Usually the Migration Department processes application of unaccompanied minors in an expedited procedure.

*Decision appeal.* The decision taken by the Migration Department can be appealed against twice. State sponsored lawyers provide free legal assistance to unaccompanied minors and other asylum seekers not only during asylum procedure, but also in instances of the appeal.

*Rights and obligations of asylum seekers.* The Law states general rights and obligations of all asylum seekers during the processing of asylum application<sup>18</sup>.

Rights:

- to reside at the Foreigners' Registration Center or the Refugees' Reception Center and enjoy services they provide;
- to process and perform notary procedures for documents related to processing of asylum application;
- to benefit from legal assistance guaranteed by the state, unless provided otherwise by the laws of the Republic of Lithuania;
- to receive compensation for using public transportation, when such use is related to processing of asylum application;
- use translation services free of charge;
- to receive free of charge primary medical care and social services at the Foreigners' Registration Center or at the Refugees' Registration Center;

<sup>15</sup> Decisions are taken by taking into account EU documents. From 4 May 2007, Lithuania implements 29 April 2004 Council directive 2004/83/EC on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (OL 2004 special edition, Chapter 19, Volume 7, p.96) and 1 December 2005 Council directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status (OL 2005, L 326, p. 13). To implement these documents, in May 2007 the order of the Minister of the Interior passed amendments to the procedure of processing asylum applications. The amendments also foresee that accommodation of unaccompanied minors should be changed seldom as possible.

<sup>16</sup> Art.87 of the Law on the Legal Status of the Aliens.

<sup>17</sup> Essential processing deadline can be extended by the decision of the Migration Department, if – for objective reasons – it is impossible to process asylum application in a defined period, however, the period of processing such application in principle cannot exceed 6 months.

<sup>18</sup> Art.71 of the Law on the Legal Status of the Aliens.

- to receive monthly monetary benefits in accordance with the procedure established by the Minister of Social Security and Labor;
- approach and meet UNHCR representatives;
- the Law foresees additional right to study in general educational and professional schools for minors seeking asylum.

The Law also establishes general obligations of asylum seekers:

- to observe requirements of the Constitution of the Republic of Lithuania, laws other legal acts;
- fulfill asylum seeker's obligations defined by the Migration Department and court rulings;
- allow medical staff to inspect the state of one's health;
- during the processing of asylum application, to produce all available documents and provide detailed, authentic explanations of reasons for granting asylum, one's own personality and circumstances of being in the Republic of Lithuania;
- to declare to the Foreigners' Registration Centre, Refugee Reception Centre or territorial police agency in writing in free format the resources and assets owned in the Republic of Lithuania within 3 days from the granting of temporary territorial asylum and the resources received pending the examination of the asylum application in the Republic of Lithuania within 1 day from the receipt thereof.

### *Practice*

*Lodging of application.* Legal acts emphasize that unaccompanied minor must himself/herself submit the application for asylum in writing or orally. The Law does not state an obligation for civil servant to establish individual's need for protection by taking into consideration child's interests. In some cases, an unaccompanied minor fails to produce and lodge such an application, because (s)he is not properly informed about such possibility.

*Primary questioning.* Upon receiving the application, officials conduct a primary questioning. Questioning takes place in the unit, where asylum application is lodged. So far, there is no possibility to ensure that all units have officials trained to work with unaccompanied minors. Legislation states that in carrying out primary actions there must be present a representative of an unaccompanied minor (guardian), however, the practice indicates that during primary questioning of an unaccompanied minor a person present is not a guardian, but rather a representative of child's rights protection agency. Formally, this representative is not appointed as a guardian of an unaccompanied minor, yet (s)he represents the interests of a minor during questioning. In some cases, participation of a representative of the child's rights protection agency in questioning is not ensured.

Following primary questioning and after the documents are sent to the Migration Department, unaccompanied minors seeking asylum await the decision on being allowed into the territory at the location, where application was submitted (up to 48 hours), that is at premises for asylum seekers at a border control checkpoint, police station or the Foreigners' Registration Center. These locations are not suitable for accommodating unaccompanied minors.

*Questioning carried out in the Migration Department.* The Migration Department, having received asylum application of an unaccompanied minor, conducts additional investigation. Employees of Asylum section conducting questioning of asylum seekers are familiarized with and follow UNHCR study publication “Questioning of individuals seeking asylum,” published in 1996, which also includes a chapter devoted to questioning of minors. Lithuania receives only few asylum applications from unaccompanied minors per year, so there are no staff members appointed to deal exclusively with minors. When needed, questioning is conducted by the most experienced employees trained to work with unaccompanied minors seeking asylum abroad; such trainings do not take place in Lithuania.

While processing minor’s application, employees simultaneously try to locate minor’s parents (guardians). In conducting the search for family members during asylum procedure, officials cooperate with the Lithuanian Red Cross Society. Until now in practice family members of unaccompanied minors are sought very formally.

In Lithuania, processing of application at a first instance (the Migration Department) usually takes 3 month, although applications of unaccompanied minors usually are processed faster. An unaccompanied minor is accommodated by the decision of the migration Department at the Refugees’ Reception Center, if there are no doubts about his/her age and (s)he has not committed a wrongdoing. The decision of the Migration Department can be appealed within 14 days to Vilnius county administrative court, and later, to higher instance court – the Lithuanian Supreme Administrative Court. Only decision taken by the Lithuanian Supreme Administrative Court is final and cannot be appealed against.

As a rule, unaccompanied minors seeking asylum in Lithuania are granted subsidiary protection, that is they are issued a permit to reside in Lithuania for 1 year with a possibility of extending it. Not a single unaccompanied minor was granted a refugee status.

Throughout the entire asylum procedure, an unaccompanied minor benefits from legal assistance provided by the Lithuanian Red Cross lawyers and financed from the state budget. Lawyers participate in questionings, consult asylum seekers, prepare appeals on negative decisions and represent the interests of all asylum seekers, including unaccompanied minors, at the appeals institutions.

The Law does not define the role of non-governmental organizations, therefore such organizations run into problems when acting at border control checkpoints, police institutions and the Foreigners’ Registration Center detention territory and while providing assistance to unaccompanied minors.

During the conversations with unaccompanied minors experts felt that the waiting period during the asylum procedure triggers stress because the whole procedure and the waiting time are perceived by the minor as very uncertain. This affects the overall wellbeing of a child. Norwegian experts have also noted that indetermination during the asylum process strongly distresses minors. For this reason the role of a guardian who is the closest person to a minor is very crucial. Conversation with the child, exploration of his/her feelings and questions regarding the asylum procedure might mitigate

general anxiety and increase clarity. It is highly recommended that guardians talk with every minor and explain the asylum procedure.

#### *Conclusions*

- There are no major difficulties applying asylum procedures for unaccompanied minors in Lithuania. Problems only arise on application of asylum procedure for unaccompanied minors, if – for a variety of reasons – they fail to lodge or produce such an application from the very beginning.
- Unaccompanied minors await the decision on being allowed into the country at locations not suitable for them (border posts, custody, the Foreigners Registration Center).
- An unaccompanied minor is provided with proper legal representation, if (s)he lodges an asylum application.
- In Lithuania, the search for parents of unaccompanied minors is conducted formally.

#### *Recommendations*

- *To ensure the participation of an official guardian during primary questioning in all cases.*
- *To ensure that all unaccompanied minors are properly informed about the possibility of lodging asylum application.*
- *To ensure that guardians explain to every unaccompanied minor the asylum procedure, give honest and realistic answers to his/her inquiries.*
- *Identify ways to conduct effective family search using best practices from other countries.*

## **4.4. PROCEDURES APPLICABLE TO UNACCOMPANIED MINORS FOREIGN NATIONALS NOT SEEKING ASYLUM IN LITHUANIA**

### *Legal framework*

Procedures related to unaccompanied minors foreign nationals who do not lodge asylum application are foreseen only in general rules approved on 24 December 2004 by order of the Minister of the Interior No. 1V-429 “On taking and implementing decisions on obliging foreign nationals to depart, expel, return and passage in transit through the territory of the Republic of Lithuania” and are invoked with an aim to expel unaccompanied minors from Lithuania.

Unaccompanied minors not seeking asylum face the procedure of return. The unaccompanied minor’s case for his/her return must be submitted to the Migration Department not later than within two working days from the moment of establishing the identity and nationality of the unaccompanied minor and locating his/her parents or other legal representatives; if the latter are not found, then from the moment of establishing the identity and nationality and the country of origin of the unaccompanied

minor foreign national or establishing a foreign state, to which the unaccompanied minor foreign national has the right to travel or which agrees to accept him/her, or from the day an institution responsible for child care and protection agrees to accept the unaccompanied minor foreign national.

The Migration Department must establish whether there are any reasons forbidding to expel or to return the foreign national to the state, if there are threats to his life and freedom or (s)he can be persecuted for the reasons of race, religion, nationality, membership of a particular social group or political opinion, or to other state, from where (s)he can be later sent to such state, also if there are serious grounds to believe that in the country the foreign national will be tortured, subjected to cruel, inhuman or degrading treatment or punishment. Officials shall also establish if the unaccompanied minor foreign national shall be properly cared for in the country, to which (s)he can be returned, by taking into account his needs, age, and level of independence<sup>19</sup>. The decision is made in writing, in Lithuanian.

The decision indicates:

- state, to which the foreign national is returned;
- institution charged with returning the foreign national;
- procedure and deadlines for appealing against the decision to return the foreign national.

Data on taken decisions to return foreign nationals is registered in the central database of the Foreigners' Registry. The decision is forwarded to the institution charged with implementing the decision.

The rules state that during questioning of every unaccompanied minor, regardless of where (s)he was detained, there must be present a temporary guardian (curator) of the minor foreign national and an interpreter, if his participation is needed.

The issue of accommodating unaccompanied minors not lodging asylum application is not regulated by legal acts.

### *Practice*

In practice, unaccompanied minors who did not submit asylum application are treated as illegal immigrants, who must be expelled from Lithuania as soon as possible and should be prevented from disappearing. For this reason, **administrative custody** is often invoked against them. In police custody, unaccompanied minors are detained for up to 48 hours, regardless of their age. One can often come across unaccompanied minors aged 16 and older held in custody. Such detention can turn into traumatic experience for unaccompanied minors. This is a flawed practice that needs to be improved by creating a system of accommodation for such unaccompanied minors.

After 48 hours, unaccompanied minors can be accommodated at temporary foster homes, belonging to municipalities, or at the Foreigners' Registration Center. In practice, the decision to detain unaccompanied minor is taken by a border guard or migration service representative. An individual can be detained for a period longer than 48 hours only on the basis of the court decision. As a rule, the courts grant such requests to border or

<sup>19</sup> Par.1 and 2 of Art.130, the Law on the Legal Status of Aliens.

migration services. Also, one can come across cases, when unaccompanied minor – finding himself at the border control checkpoint without appropriate documents and not lodging asylum application in Lithuania – can be denied an entry into the country.

### *Conclusions*

- Existing legal regulation and practice in respect of unaccompanied minors not seeking asylum is not adjusted to and remains “indifferent” to the needs of a child. Unaccompanied minors are treated as adult illegal migrants, officials invoke administrative custody in dealing with them and disregard vulnerability of a minor.
- Lithuanian legislation does not provide clear-cut regulation of procedures on treatment of unaccompanied minors who do not have documents to enter and/or stay in the country and do not seek asylum. Various state institutions take different approaches to this group of unaccompanied minors, which leads to various problems (especially when it comes to accommodating them). Due to insufficient regulation of the issue, the rights of unaccompanied minors can be violated.
- An unaccompanied minor who does not have proper documents and does not produce or fails to formulate clearly asylum application in Lithuania, can be refused an entry into the country, thus the minor's need for protection can be left unidentified.
- Upon arriving on the territory of Lithuania without proper travel documents, whether on the border or inside the territory of the country, an unaccompanied minor can be detained in police custody and later at the Foreigners' Registration Center with an aim to expel him/her from Lithuania.
- The Law does not foresee where an unaccompanied minor not seeking asylum must be accommodated.
- Information on unaccompanied minors not seeking asylum is not collected and analyzed on a national level.

### *Recommendations*

- *It is necessary to ensure that unaccompanied minors are properly informed about the possibility of applying for international protection.*
- *The system of identifying, detaining, accommodating and caring for unaccompanied minors not seeking asylum must be improved.*
- *It is recommended that unaccompanied minors not seeking asylum be accommodated in a single institution, which possesses experience in working with minors, for example, the Refugees Reception Center. The practice whereby unaccompanied minors are detained in police custody is flawed and contradicts legal provision stating that a minor can be detained only in extreme cases, taking into account his/her best interests.*

## 5. RECEPTION AND INTEGRATION

### 5.1. RECEPTION AND ACCOMMODATION

#### 5.1.1. RECEPTION AND ACCOMMODATION OF UNACCOMPANIED MINORS SEEKING ASYLUM

##### *Legal framework*

Accommodation of unaccompanied minors seeking asylum is regulated by the Law. In taking the decision to grant protection in Lithuania, the Migration Department also decides the question of how to accommodate unaccompanied minor. In Lithuania, unaccompanied minors are directed to the Refugees' Reception Center. The Law foresees that unaccompanied minor is accommodated at the Center, if the his/her temporary guardian/curator does not object to such decision.

The Refugees' Reception Center is a budgetary agency providing social services, designed to accommodate foreign nationals granted asylum in the Republic of Lithuania and all unaccompanied minors asylum seekers. The Center is also responsible for social integration of foreign nationals who have been granted asylum in Lithuania.

Accommodation of unaccompanied minors at the Refugees' Reception Center is comprehensively regulated by the rules approved in 2005 by the Minister of the Interior and the Minister of Social Protection and Labor<sup>20</sup>. The rules state that the Migration Department takes the decision on accommodating the unaccompanied minor seeking asylum at the Center and immediately dispatches the decision by fax and post to the Center. The decision on accommodating the unaccompanied minor seeking asylum at the Center indicates the person who is guardian (curator) or other legal representative and notes that (s)he does not object to accommodation of the unaccompanied minor seeking asylum at the Center. If the guardian (curator) or other legal representative of the unaccompanied minor seeking asylum objects to accommodation at the Center, the Migration Department takes the decision on accommodating the unaccompanied minor seeking asylum at a location indicated by the guardian (curator) or other legal representative. The unaccompanied minor seeking asylum is accompanied to the Refugees' Reception Center by a representative of the institution, which received asylum application, and is transported there by the vehicle of that institution.

##### *Practice*

All unaccompanied minors seeking asylum – by the decision of the Migration Department – are accommodated at the Refugees' Reception Center, located in Rukla, near Kaunas. The Refugees' Reception Center is the only institution in Lithuania providing living place for unaccompanied minors seeking asylum.

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<sup>20</sup> Rules on accommodation of unaccompanied minors asylum seekers at the Refugees' Reception Center, approved by 2 February 2005 order of the Minister of the Interior and the Minister of Social Protection and Labor No. 1V-31/A1-28, [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_bin?p\\_id=250167](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_bin?p_id=250167).

However, one can come across cases, where – until the identity of the unaccompanied minor is established – (s)he is accommodated at the Foreigners' Registration Center, which is not suitable to care for minors. Once the Migration Department establishes that the individual seeking asylum is an unaccompanied minor, (s)he is transferred to the Refugees' Reception Center.

Unaccompanied minors seeking asylum are accommodated at the Reception Center's teenager section, where up to 20 unaccompanied minors can reside. At the moment, the section of unaccompanied minors at the Center has 5 allocated rooms, where several unaccompanied minors can reside. The rooms are joint in double blocks. Unaccompanied minors independently cook food, clean their rooms. Social workers teach minors to carry out domestic work, do cooking. The section is monitored round the clock by a watchman and from 17 o'clock onwards is closed to outside visitors. Everybody who arrives at the premises of unaccompanied minors must pass a watchman, thus security of minors is protected. When accommodating unaccompanied minors, consideration is given to their gender. There were no cases of sexual violence registered at the Center, nor cases of pregnancy. The Center organizes sexual education and pregnancy prevention lectures. Employees monitor hygiene of unaccompanied minors.

It is calculated that provision of state support to one individual accommodated at the Refugees' Reception Center costs the Government around 500 Lt (145 EUR) per month.

Although the Law foresees the possibility of accommodating unaccompanied minor with his/her guardian, in practice there were no such cases registered in Lithuania.

### *Statistics*

Since 2002, there were 30 unaccompanied minors accommodated at the Refugees' Reception Center. There are 4 employees responsible for working with unaccompanied minors. In order to ensure efficient auditing and control of data collected from foreign nationals who receive protection, in 2004, the Center implemented informational system of foreign nationals granted asylum – PAIS (ISAR – Information System for Administration of Refugees). One can find within the system the following data on unaccompanied minors: name, surname, date of birth, nationality, when a person has arrived, what courses(s)he is taking, when a person has departed, at which municipality is integration program taking place. Depersonalized data is provided in table 2.

**Table 2. Unaccompanied minors accommodated at the Refugees' Reception Center (RFC) 2002–2008 (according to the country of origin)**

<i>The country of origin</i>	<i>Number fo unaccompanied minors</i>	<i>The year of arriving at the RFC</i>	<i>Place of departure</i>
Azerbaijan	1	2004	Klaipėda
Afghanistan	7	2002 (5), 2003 (1), 2005 (1)	The place of departure is unknown ** (5), Jonava (1), Kaunas (1)
Russia	9	2002 (2), 2003 (4), 2005 (2), 2006 (2)	The place of departure is unknown ** (1), detained under the Criminal Code and residence permit revoked (1), reunited with parents (1), Jonava (1) Kaunas (5), Alytus (1)
Pakistan	3	2004 (1), 2006 (1)	Vilnius (1), returned to Foreigners' registration Centre (1)
Palestine	1	2003	Transferred to the Foreigners' Registration Center once it became known that he is adult Egyptian national
Nigeria	1	2005	The place of departure is unknown **
Without citizenship	2	2005	The place of departure is unknown **
Uzbekistan	4	2007	Šalčininkai
Vietnam	1	2008	Resides in the RRC
Congo Democratic Republic	1	2008	Resides in the RRC
<b>Total</b>	<b>30</b>		

Source: The Refugees Reception Center

\*\* Left the Centre without informing

### *Conclusions*

- Unaccompanied minors seeking asylum began to be accommodated in the Refugees' Reception Center since 2004. Until 2004, they were most often accommodated in the Foreigners' Registration Center.
- The practice of accommodating unaccompanied minors asylum seekers in Lithuania, in essence, fulfills EU requirements. Accommodation conditions and provided services, in essence, correspond to child's interests. They enjoy proper environment created for them.
- There are cases, when unaccompanied minors are accommodated at the Foreigners' Registration Center until their age is established.

### *5.1.2. RECEPTION AND ACCOMMODATION OF UNACCOMPANIED MINORS NOT SEEKING ASYLUM*

#### *Legal framework*

If an unaccompanied minor is granted an entry to the territory of Lithuania or is present there, regardless of the legal status of his/her stay, the Law defines general provisions applicable to him/her due to his/her vulnerable situation.

The Law foresees the appointment of a temporary guardian (curator) and enables the guardian (curator) to represent the interests of the unaccompanied minor foreign national. Also, the Law defines the rights of unaccompanied minors foreign nationals:

1) to be provided with living premises free of charge and to be supported in accordance with the procedure defined by the Minister of Social Protection and Labor of the Republic of Lithuania;

2) to study at general education or professional school in accordance with the procedure defined by the Minister of Education and Science (according to the Constitution of the Republic of Lithuania, education is compulsory for everybody below 16 years old);

3) to receive primary medical care free of charge in accordance with the procedure defined by the Minister of Health;

4) to receive social services free of charge in accordance with the procedure defined by the Minister of Social Protection and Labor;

5) to benefit from legal assistance guaranteed by the state, unless provided otherwise by the laws of the Republic of Lithuania;

6) to contact representatives of Lithuanian non-governmental or international organizations.

The Law obliges the Migration Department to contact representatives of Lithuanian non-governmental and international organizations and temporary guardian (curator) of the unaccompanied minor foreign national and immediately organize the search for family members of the unaccompanied minor. The issue of the unaccompanied minor's legal status in the Republic of Lithuania is processed simultaneously with the search for family members of the unaccompanied minor foreign national<sup>21</sup>.

However, neither the Law nor supporting legislation regulate in detail specific conditions of receiving and accommodating unaccompanied minors who do not lodge asylum application. This leads to problems related to their reception and accommodation.

### *Practice*

Procedures, related to unaccompanied minors who do not have documents to enter and/or be in Lithuania and do not seek asylum, in essence, is not regulated in Lithuanian legislation, there are no implementation instruments to execute them; also, it is not stated, where to accommodate such unaccompanied minors. The Law does not appoint an institution responsible for reception and accommodation of such unaccompanied minors. In practice, unaccompanied minors not seeking asylum undergo administrative detention aimed to expel them from Lithuania.

The practice indicates that unaccompanied minors, who are detained for illegal entry or stay in the Republic of Lithuania and who do not seek asylum, are accommodated at the Foreigners' Registration Center until they are expelled from the Republic of Lithuania. Although accommodation procedure at the Foreigners' Registration Center states that unaccompanied minors foreign nationals are not accommodated at the Center<sup>22</sup>, one can come across cases, where unaccompanied minors not seeking asylum were accommodated at the Center until the decision was taken on their expulsion.

<sup>21</sup> Art.32, amendments passed in 2008.

<sup>22</sup> Description of conditions and procedures of temporary accommodation of foreign nationals in the Foreigners' Registration Center, approved by 4 October 2007 order of the Minister of the Interior of the Republic of Lithuania No.1V-340.

According to the Foreigners' Registration Center data, from 2002 until the end of 2008, there were unaccompanied minors foreign nationals from Russia, India, Vietnam, Belarus, Latvia and Turkey accommodated at the Center. The youngest individual accommodated at the Foreigners' Registration Center was a 15,5 years old Vietnam national. From the Foreigners' Registration Center she was transferred to Social Assistance and Prevention Center for Minors under Kaunas city police HQ<sup>23</sup>.

Unaccompanied minors who do not seek asylum in Lithuania can be transferred to a variety of institutions, because the issue of their accommodation is not regulated. Thus, officials take the decision on case by case basis. Most experience in working with these minors has Kaunas police HQ. For example, in Kaunas there is a number of institutions, which can receive detained minors 24 hours a day:

- Assistance and Prevention Center for Minors (shut down in 2007);
- Kaunas municipality Children Foster Home (receives children aged from 2.5 to 18 years old);
- Children Welfare Center "Pastogė" (accepts children from 2 to 13 years old);
- Family estate of Sigita Džiaugienė (accepts children from 2 to 18 years old);
- Kaunas 2nd Clinical Hospital (receives all children from environments posing threats to his/her health, for example, a child is left unattended);
- Juvenile Remand Prison-Correctional Facility – used to detain minors who committed or are suspected of committing crimes in Lithuania. Unaccompanied minors who entered Lithuania by breaking the law and who do not seek asylum are also detained here. There were registered cases, when an unaccompanied minor has been detained at the Juvenile Correctional Facility, because he faced charges of illegal border crossing.

Kaunas also happens to be the location, where Caritas project "Assistance to victims of prostitution and human trafficking" – encompassing Kaunas, Klaipėda, Šiauliai, Panevėžys, and Marijampolė – takes place. During the implementation of this project, there was only one case recorded: in prostitution sting operation, the police detained in Kaunas two minors from Belarus. They cooperated with representatives of Caritas, but were later expelled from the Republic of Lithuania.

### *Conclusions*

- The Law does not regulate the issue of accommodating unaccompanied minors not seeking asylum. Officials take decisions on their accommodation on case by case basis. This circumstance does not fulfill EU and UN recommendations and is not in child's best interests.
- The practice indicates that unaccompanied minors not seeking asylum in Lithuania often undergo detention, because there are no other accessible accommodation options.

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<sup>23</sup> The center was closed down in 2007, since Kaunas city police HQ refused to take on responsibility for unaccompanied minors from all of Lithuania, including unaccompanied minors foreign nationals.

### *Recommendation*

- *To establish care system for unaccompanied minors not seeking asylum;*
- *To appoint a responsible institution charged with accommodating them.*

#### 5.1.2.1. DETENTION OF UNACCOMPANIED MINORS AND ALTERNATIVE DETENTION MEASURES

##### *Legal framework*

The Law states that a foreign national can be detained up to 48 hours if (s)he cannot prove to be in the country legally. A foreign national can be detained for longer periods only by the court decision. In such case, (s)he is accommodated at the Foreigners' Registration Center. The Law makes an exception for unaccompanied minors, who can be detained only in extreme cases, taking into account child's best interests<sup>24</sup>. This exception also extends to asylum seekers, who cannot be detained for illegal entry or stay in Lithuania.

The Law also defines more lenient, alternative detention measures, which can be invoked when foreign national's identity is established and (s)he does not pose a threat to national security and public order, assists the court in establishing his/her legal status in the Republic of Lithuania and taking into account other circumstances. One of the alternative detention measures invoked in the case of unaccompanied minors is to entrust the unaccompanied minor to the care of a social agency or the national of the Republic of Lithuania or the foreign national legally residing in the Republic of Lithuania, bound by family ties to the foreign national whose case is considered, provided such person obliges to take care of and support the minor. In all other cases, unaccompanied minors not seeking asylum are accommodated at the Foreigners' Registration Center.

##### *Practice*

Although detention of unaccompanied minors should be invoked only in extreme cases and by taking into account child's best interests, detention of unaccompanied minors is a frequent practice in Lithuania.

Unaccompanied minors not seeking asylum can be detained at police (custody), accommodated at the Foreigners' Registration Center or other institutions. The Foreigners' Registration Center is not a social agency. It is a law-enforcement agency. The Center does not have separate premises for minors, therefore they often stay together with other detained adults foreign nationals. Unaccompanied minor (male), who is detained by the court decision at the Foreigners' Registration Center, is accommodated at the premises for detained adult men, unaccompanied minor (female) – together with other detained women. The Foreigners' Registration Center lacks staff members properly trained to work with unaccompanied minors foreign nationals. At the Center, an unaccompanied minor can receive social and psychological assistance. (S)he can also attend a secondary school.

In conducting this research, the authors were able to obtain detailed information about detained unaccompanied minors only from Kaunas police HQ. Kaunas county police HQ collects information about unaccompanied minors, because Juvenile Remand

<sup>24</sup> Art.114, the Law on the Legal Status of Aliens.

Prison – Correctional Facility, where unaccompanied minors not seeking asylum and suspected of committing a crime in Lithuania or sentenced for committing a crime, are directed, is located in Kaunas. Until 2007, there was the Social Assistance and Prevention Center for Minors under Kaunas city police HQ, where minors detained throughout Lithuania were accommodated until they were returned to their parents or to the country of origin. Later this center was closed; now unaccompanied minors are detained in police custody and later accommodated at the Foreigners' Registration Center.

Kaunas PHQ until the end of 2008, recorded 13 unaccompanied minors, who were detained for various misdemeanors or even crimes. They were later returned to their countries of origin.

*In 2002–2003, there were no cases recorded of detained unaccompanied minors. In 2004, two unaccompanied minors, nationals of the Russian Federation, having served their sentence, were returned to the Russian Federation by the decision of the Migration Department. Two Swedish nationals, aged 8 and 6, and one 17 years old Ukrainian national were accommodated at the Social Assistance and Prevention Center for Minors in Kaunas and later returned to their parents to the country of origin. In 2005, one unaccompanied minor, a Ukrainian national, having served the sentence, was returned to Russia. In 2006, five nationals of the Russian Federation, aged 17, 16 and 15, having served the sentence, were returned to Russia. One 17 years old Turkish national, detained in Lazdijai and sentenced for illegal border crossing, was returned to the country of origin (see table 3).*

#### *Conclusions*

- The procedure of detaining unaccompanied minors does not take into account specific needs of a child. Unaccompanied minors foreign nationals are detained in Lithuania in custody, together with other law-breakers, in other institutions, also at the Foreigners' Registration Center, together with other adult migrants. This does not conform to the best practice of accommodating unaccompanied minors in facilities specially adjusted for them.
- There is no personnel dedicated to working with unaccompanied minors who are detained and there are no suitable premises.

#### *Recommendations*

- *To avoid detaining unaccompanied minors and to invoke alternative detention measures to deal with them.*

#### *Statistics*

There is no statistical data collected on unaccompanied minors detained in Lithuanian custody. Also, there is no data on how many unaccompanied minors were accommodated at temporary children foster homes.

Information on detained unaccompanied minors is recorded only at the Foreigners' Registration Center and Kaunas county police HQ.

**Table 3. Kaunas city Police HQ data on detained unaccompanied minors not seeking asylum in Lithuania, 2004–2008**

Year	Number	Country	Other
2004	2	Russian Federation	Served the sentence for illegal border crossing. Were expelled after serving the sentence by the decision of the Migration Department.
	2	Sweden	Accommodated at the Social Assistance and Prevention Center for Minors. Returned to parents.
	1	Ukraine	Accommodated at the Social Assistance and Prevention Center for Minors. Returned to parents.
2005	1	Ukraine	After serving the sentence returned to Russia.
2006	5	Russian Federation	After serving the sentence returned to Russia.
2008	1	Uzbekistan	Sought asylum.
	1	Turkey	Detained for illegal border crossing. Expelled to Turkey.
Total	13		

**Table 4. Foreigners' Registration Center (FRC) data on accommodated unaccompanied minors not seeking asylum in Lithuania, 2002–2008**

No.	Date of arrival in the FRC	Country	Birth date	Age	Gender	Departure destination
1.	2002-03-12	Russia	1984	17	Male	Russia
2.	2002-04-12	Vietnam	1985	17	Female	Vietnam
3.	2002-08-10	Russia	1987	15	Female	Social Assistance and Prevention Center for Minors
4.	2002-09-10	Vietnam	1985	17	Male	Vietnam
5.	2002-11-08	India	1985	17	Male	India
6.	2002-12-18	India	1985	17	Male	India
7.	2002-12-18	India	1985	17	Male	India
8.	2002-12-24	Belarus	1986	16	Male	Detained under the Criminal Code
9.	2003-06-18	Latvia	1986	16	Female	Latvia
10.	2005-04-12	Turkey	1987	17	Male	Detained under the Criminal Code. Departed to Turkey
11.	2008-04-25	Russia	1991	17	Female	Russia

## **5.2. INTEGRATION OF UNACCOMPANIED MINORS: SERVICES PROVIDED FOR UNACCOMPANIED MINORS AT THE REFUGEES RECEPTION CENTER**

### *Legal framework*

The Republic of Lithuania creates conditions for foreign nationals, including unaccompanied minors, in possession of a residence permit to integrate into state's political, social, economic, and cultural life. In Lithuania, integration is coordinated by the Ministry of Social Protection and Labor. The Law distinguishes unaccompanied minors as a special group and foresees that all unaccompanied minors, regardless of the legal status of their stay in Lithuania, have the right to be provided with living premises free of charge, to be supported, to study at general education and professional school, to receive medical and legal assistance. The law foresees the following areas of integration for foreign nationals:

### *Instruction, provision of assistance and Education*

Unaccompanied minors accommodated at the Refugees' Reception Center attend Lithuanian general education school in Rukla. Earlier, there was a possibility to attend a Russian school in Jonava, however, due to a small number of pupils it was reorganized (shut down). Before enrolling a minor at school, a commission of teachers evaluates his abilities, assesses the level of education and determines in which grade (s)he should be enrolled. At school, minors follow special adaptation and Lithuanian language programs. Guardians of the minors, appointed by the Center, closely cooperate with teachers of the unaccompanied minors. In doing homework, unaccompanied minors receive additional assistance from the Center's social workers, they also monitor child's progress and, if needed, provide additional instruction in Lithuanian language.

Since 2007, the integration procedure have changed: it was established that there have to be intensive Lithuanian language courses, corresponding to European Council language proficiency descriptions of A1 level, and Lithuanian social study courses organized in the Center according to programs approved by the Ministry of Education and Science.

The Refugees' Reception Center can additionally conduct several instructional and assistance providing programs designed for unaccompanied minors. Appointment of these programs is up to the guardian to decide:

- *Program of psycho-correctional work with unaccompanied minors foreign nationals.* Its aim is to provide psychological assistance to children suffering from behavioral disorders and study difficulties. If needed the work is done in group and individual sessions.
- *Minors' self-support group.* It unites unaccompanied minor children of different national and religious backgrounds for common activities in a self-support group. During exercises, children are taught skills to discover self-support resources and to find socially acceptable uses for these resources; children are assisted in getting to know themselves, resolving identity problems typical of teenage age; group the-

rapy methods are used to decrease isolation of children who have experienced psychological crisis, to provide emotional/psychological support.

They also enjoy other instruction and assistance programs open to all minors:

- *Ethical education.* The aim is to form negative attitudes to harmful habits and encourage their prevention. During exercises, children are given an opportunity to discover common human values and see instances of personal and public lives based on them; they are also taught the basic principles of self-understanding and positive relations with other people.
- *Occupational instruction.* The aim is to educate an independent personality: to prepare minor foreign national for independent life by encouraging occupational activities, cultivating theoretical and practical working skills. The Center organizes proper job and personal skills assessment, vocational and job search courses. During vocational orientation exercises, children are familiarized with the Lithuanian labor market, the procedures of registering and visiting Labor Exchange and services it provides, educational and vocational institutions and their activities, participants are taught to prepare and fill out documents necessary for employment, they are introduced to the Labor code, assisted in job search. Foreign nationals granted asylum are introduced to psychological methods of selecting workers, taught to introduce themselves effectively, to communicate with potential employers.
- *Lithuanian social studies course.* The aim is to introduce unaccompanied minors seeking asylum with Lithuanian culture, traditions, history, geographical location, economy and main laws.

### *Health care*

In Lithuania, groups benefiting from state health care services free of charge are defined in the Law on Health Insurance. After the amendments, this law includes unaccompanied minors foreign nationals, regardless of their legal status inside the country<sup>25</sup>. Thus, currently all unaccompanied minors receive health care services in Lithuania free of charge. The state finances health care services regardless of whether unaccompanied minors are in the country legally or not and regardless of where they are accommodated and what procedures they undergo.

Unaccompanied minors, as well as other individuals residing at the Refugees' Reception Center receive medical services at the Center's medical facility. The facility employs a general practitioner and a nurse.

The Center has signed an agreement on provision of health care services with Stock company "Achema" outpatient clinic; in the case of serious health problems, unaccompanied minors are sent for consultations to Kaunas city clinics. All medical services provided by the Center and on the request from the Center's doctor are covered from the state's budget.

In practice, there were cases of unaccompanied minors with specific and serious health problems, for example suffering from diabetes.

<sup>25</sup> Par. 17, Art.6, new edition of the Law on Health Insurance of the Republic of Lithuania since 1 January 2009, [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=335083&p\\_query=&p\\_tr2 =](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=335083&p_query=&p_tr2=)

### *Psychologist's consultations*

Unaccompanied minors are provided with psychological assistance at the Refugees' Reception Center, if suggested by their guardians, who – together with other social workers from the Center and administration – decide whether there is a need to provide psychologist's help.

There are psychological assistance and relaxation offices installed on the premises of the Center. Minors can participate in consultations, relaxation and autogenic training, that is, music, art therapy, film screenings and group sessions with minors.

### *Material supplies*

Inhabitants of the Center receive a monthly monetary allowance for food and miscellaneous expenses; inhabitants are provided with essential clothes, hygienic items, household goods and items. School children are provided with all school supplies.

Single unaccompanied minor receives 169 Lt (49 EUR). Monetary allowance of 169 Lt is awarded and paid out to a child. The sum is divided into two parts and paid out twice per month. The unaccompanied minor together with the guardian goes shopping and they both decide how to distribute these money. This sum – intended to cover the monthly costs of minor's food – is insufficient.

Unaccompanied minors granted asylum are provided support at the Refugees' Reception Center until they turn 18 years old. Later, for the period of 12 months, integration can continue in municipalities.

### *Conclusions*

- Instruction and other services provided to unaccompanied minors at the Refugees' Reception Centre fulfill international requirements.
- Material supplies (money allocated for food) are insufficient.

### *Recommendation*

- *To increase the amount of money monthly allocated for unaccompanied minor's food.*

## **5.3. INTEGRATION OF UNACCOMPANIED MINORS GRANTED ASYLUM IN LITHUANIA IN MUNICIPALITIES**

### *Legal framework*

Since 2005, the Refugees' Reception Center is charged with organizing social integration of foreign nationals granted asylum in the Republic of Lithuania on the territory of municipalities. Integration in municipalities is supported by the state for one year. Integration procedure foresees that in the case of especially vulnerable groups integration can continue for the period not longer than term of validity of the residence

permit issued by the Republic of Lithuania. Total integration period in the Center and on the territory of a municipality cannot exceed 60 months<sup>26</sup>.

The decision on continuation of integration is taken by the commission within 30 days from the date application is submitted by the foreign national granted asylum, on the basis of the foreign national's application and recommendations provided by the institution implementing integration.

### *Practice*

Unaccompanied minors who turn 18 years old leave the Center to live in municipalities. Similarly to other foreign nationals, they receive a one-time payment for settlement defined in the Republic of Lithuania law on Payments to Children who Attained Adulthood. One-time allowance for settlement is intended to cover the purchase of necessary items and amounted to around 2,000 Lt (580 EUR). From 2009, one-time allowance was increased to 9,750 Lt / 2,800 EUR. However, it is planned to lower it to 7,800 Lt / 2,200 EUR.

Later, integration process continues on the territory of a municipality. For the period of integration in municipality, foreign national is appointed an integration coordinator, who helps to resolve daily issues. All foreign nationals taking place in the integration program receive a monthly monetary allowance for necessary items – food, clothes, hygienic items, public transportation (315 Lt / 90 EUR). Their rent is covered for the amount up to 700 Lt / 200 EUR, utilities are covered for up to 88 Lt / 25 EUR. Currently, integration of former unaccompanied minors seeking asylum takes place in Kaunas and Vilnius.

Non-governmental organizations, active in the field of integrating foreign nationals granted asylum, indicate that Lithuania must devote more efforts to instruction and education of unaccompanied minors. Currently, unaccompanied minors who attain adulthood can benefit only from 12 month integration period. This period is insufficient, especially if the foreign national enrolls to study. In order to support him/herself, such an individual – just recently included in a group of vulnerable individuals – must work, which decreases his chances to study.

### *Conclusions*

- The period of integration of foreign nationals in municipalities set by the Law is insufficient. Especially in the case of foreign nationals who upon reaching adulthood enroll at an educational establishment.

### *Recommendation*

- *To define in integration procedure measures for promoting study opportunities of unaccompanied minors who reached adulthood.*

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<sup>26</sup> 14 April 2006 order of the Minister of Social Protection and Labor of the Republic of Lithuania No. A1-107 On amendment of the Description of provision of support by the Lithuanian state to foreign nationals granted asylum in the Republic of Lithuania for integration procedure of, approved by the Minister of Social Protection and Labor by 11 January 2006 order No. A1-13, "[http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_bin?P\\_id=274517](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_bin?P_id=274517)."

## 6. RETURN OF UNACCOMPANIED MINORS

### *Legal framework*

From April 2008, Lithuania conducts return of foreign nationals by applying the provisions of the Schengen code. The Code states that a state must ensure that all decisions on return of those individuals shall be taken following a comprehensive study of facts. The Code also states that Member States must take measures necessary for individuals who are enjoying subsidiary protection (also, after the period of subsidiary protection expires) to return voluntarily to their country. When needed, Member State can initiate situation assessment missions<sup>27</sup>.

The Law states that a foreign national, including minor foreign nationals below the age of 18, who stay on the territory of the Republic of Lithuania illegally, can be returned voluntarily or expelled to the country of origin or other foreign state, to which they have the right to travel. Unaccompanied minor foreign national is returned only in the case when in the foreign state, to which (s)he is being returned, (s)he will be properly cared for, taking into account his needs, age and level of independence. If the unaccompanied minor foreign national cannot be returned to the country of origin or other state, (s)he must be granted the right to reside in the Republic of Lithuania, that is (s)he must be issued with a temporary residence permit in Lithuania<sup>28</sup>.

The return of foreign nationals is defined in the rules approved by the Minister of the Interior<sup>29</sup>. The decision to return foreign nationals, including unaccompanied minors, from the border is taken by the State Border Guard Service, provided there is no basis to charge a foreign national breaking the procedure of border crossing and detained at the border crossing or checkpoint under criminal or administrative charges, and (s)he can be immediately returned to the state (s)he arrived from in accordance with the defined procedure. For this reason, the unaccompanied minor not seeking asylum can be immediately returned to the state, from which (s)he arrived, by the decision of the State Border Guard Service.

In all other cases, the decision on return of foreign nationals, including minors, is taken by the Migration Department. The foreign national is informed of the Migration Department decision orally in a language understood by the foreign national; the foreign national has to sign the decision to confirm (s)he was informed. Also, the decision is signed by police or State Border Guard Service official, who informed the foreign national of the decision, and interpreter, if (s)he was present. When informing about the decision an unaccompanied minor, there must be present his/her guardian (curator), who also has to sign the decision. The foreign national is given a copy of the decision on his/her expulsion.

If the foreign national does not possess a valid travel document, request is made to a foreign state's diplomatic service or consular institution to issue travel document for return to the foreign state.

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<sup>27</sup> Art.21, the Schengen Code.

<sup>28</sup> The Law on the Legal Status of Alien, Art.129.

<sup>29</sup> "Rules on obligation to depart, expulsion, return and transit via the territory of the Republic of Lithuania decisions of aliens" approved on December 24, 2004, No. 1V-429 by the Minister of the Interior.

Institution charged with implementing the decision on return of the foreign national, organizes escort of the unaccompanied minor foreign national to the state, to which (s)he is being returned and his/her transfer to parents or other legal representatives or to representatives of that state's institution responsible for children care and protection. Differently from the return of other foreign nationals, unaccompanied minors should not only be escorted to the state border, but should also be accompanied by officials and transferred to officials or family.

If the implementation of decision of the Migration Department to return a foreign national is not suspended and there are no objective circumstances preventing the foreign national from being returned – a foreign state, to which the foreign national can be returned, refuses to accept him/her; the foreign national must be given medical care, the fact which is testified by consulting commission of health care institution; the foreigner does not have a valid travel document, there is no possibility to obtain travel tickets and so on – or there are no grounds for suspending the implementation of the decision on return of the foreign national, or circumstances that prevented the foreign national from being return, officials of the institution implementing the decision on return of the foreign national perform the return of the individual immediatly.

The State Border Guard Service Border Guard Council receives in writing (via post or electronic communication channels) data about the foreigner being returned: nationality, name, surname, date of birth, state, to which (s)he departs, departure time and means of transportation, and border control checkpoint through which (s)he travels, officials are informed about what type of valid travel document the foreign national possesses, whether he holds a valid visa of a foreign state.

### *Practice*

In Lithuania the decisions on return of foreign nationals, including unaccompanied minors, are taken by the Aliens Affairs section of the Migration Department. The decision indicates which border or police unit shall implement the decision. Only legal grounds on which decision was taken are provided in the document. Decision motives are not indicated.

The Law foresees that the unaccompanied minor foreign national is returned only in the case when in the foreign state, to which (s)he is being returned, (s)he will be properly cared for, taking into account his needs, age and level of independence. Having established the identity of the unaccompanied individual, the Migration Department attempts to get in touch with parents of the unaccompanied minor. In case of failure, the Migration Department approaches qualified institution of the country of origin of the unaccompanied minor with the request to confirm that the unaccompanied minor staying in Lithuania is a national of that state and with the request to accept him/her. After receiving an answer from the responsible institution, the Migration Department initiates the return of the unaccompanied minor and his transfer to the responsible institution of another state. There are no other procedures employed to verify whether the unaccompanied minor shall be properly cared for in the country of origin.

The research has also demonstrated that sometimes the return procedure is initiated immediately after the unaccompanied minor turns 18 years old, because then this

procedure is easier to implement (there is no requirement to verify that the unaccompanied minor shall be properly cared for in a foreign state).

*In 2008 a minor from the Democratic Republic of Congo, aged 17, arrived in Lithuania. She was accommodated at the Foreigners' Registration Center, later transferred to the Refugees' Reception Center. During the asylum procedure, she turned 18 years old and then the Migration Department took the decision to expel her to the Democratic Republic of Congo. At the moment, this case is reviewed in appeals institution. The final decision has not yet been taken (May 2009).*

Most often, the return is implemented by the State Border Guard Service, The Refugees' Reception Center or territorial police units. Responsible institution is appointed with the view of the location of the foreign nationals, including unaccompanied minor. If unaccompanied minor is detained at the Foreigners' Registration Center, the Center shall be appointed to implement the decision on the return.

In practice, the return of unaccompanied minors is largely similar to the procedure of returning adults, that is, border guards or police officials escort an individual to the state border. At the border crossing they can be transferred to official representatives from the country of origin or parents, but that is not a compulsory condition for the return. In some cases, unaccompanied minors travel from Lithuania to the country of origin by themselves. They are not escorted to the country of origin.

#### *Statistics*

Lithuania does not collect national statistical data on the return of unaccompanied minors. Such information would only be possible to extract after reviewing journals of the Migration Department. At the Foreigners' Registration Center there is a possibility to locate such cases, but only if the decision was implemented by the Foreigners' Registration Center.

**Table 5. Data of the Foreigners' Registration Center on unaccompanied minors not seeking asylum in Lithuania, who were accommodated at the Center 2002–2008 and departed from Lithuania**

Date of entry into the FOREIGNERS' REGISTRATION CENTER	Country	Date of birth	Age	Gender	Departure destination
2002-03-12	Russia	1984	17	Male	Russia
2002-04-12	Vietnam	1985	17	Female	Vietnam
2002-09-10	Vietnam	1985	17	Male	Vietnam
2002-11-08	India	1985	17	Male	India
2002-12-18	India	1985	17	Male	India
2002-12-18	India	1985	17	Male	India
2003-06-18	Latvia	1986	16	Female	Latvia
2005-07-22	Turkey	1987	17	Male	Turkey
2008-04-25	Russia	1991	17	Female	Russia
Total <b>9 cases</b>					

### *Conclusions*

- The procedure defining the return of unaccompanied minors is not completely adjusted to specific interests of a child. Evaluation of whether there exist conditions for addressing properly the needs of the returned unaccompanied minor in the country of origin is more a formal procedure rather than an actual investigation focusing on a particular case.
- Unaccompanied minors not seeking asylum can be returned by the decision of the State Border Guard Service.

### *Recommendations*

- *To register within national databases cases of all returning unaccompanied minors.*
- *Identified unaccompanied minors shall always be accompanied and handed over to parents or a corresponding institution. A minor shall be ensured the possibility of using voluntary return.*

## **6.1. ASSISTED VOLUNTARY RETURN OF UNACCOMPANIED MINORS**

### *Legal framework*

Assisted voluntary return of foreign nationals is conducted in Lithuania only by the International Organization for Migration (IOM) Vilnius Office. Currently, IOM Vilnius provides assistance from the EU funds.

### *Practice*

Assisted voluntary return operations in Lithuania are implemented from 1997 by IOM Vilnius. During the entire period of its activity in Lithuania, IOM did not register a single case of the assisted voluntary return of an unaccompanied minor.

The data from interviews with unaccompanied minors, conducted during this research, indicates that although Lithuania is not always the final destination, the majority of children “would like to stay in Lithuania, to study, later find a job and earn enough income”. There were no minors identified wishing to return to the country of origin voluntarily. During the entire period from 2000 not a single minor asylum seeker sought assisted for a voluntary return to the country of origin.

If there were any cases of the assisted voluntary return of unaccompanied minors, IOM Vilnius Office employees would follow general IOM recommendations on the return of unaccompanied minors.

Before returning an unaccompanied minor, it is necessary to perform the following actions:

- legal representative and other related parties have to confirm that the return fulfils minor’s best interests;
- the child has to return to the country of origin voluntarily;

- parents/guardian in the country of origin have to confirm in writing that they want to take responsibility for the child. The guardian must meet IOM representatives and meet the child at the airport during arrival;
- parents/guardian must sign a legal document stating they took over responsibility for the child;
- the child must be accompanied during the travel.

It is also recommended that:

- before the return, family situation in the country of origin should be evaluated;
- authorities in the country of origin should be informed about the return and arrival of the child and should confirm in writing the location of transfer in the country of origin;
- the return should be followed by reintegration and follow-up investigation; it is best to carry it out before the child turns 18 years old.

Multi-year program of the European Return Fund in Lithuania for 2008–2013 states that there will be created special assisted voluntary return programs for vulnerable groups of foreign nationals, including unaccompanied minors, victims of human trafficking and other vulnerable groups staying illegally on the territory of the Member State. The aim of the programs is to create a more effective and humane return policy.

#### *Conclusion*

- There have been no cases of assisted voluntary return of unaccompanied minors in Lithuania, thus there is no practical experience; however, IOM Vilnius Office is prepared to assist with such returns if needed.

#### *Recommendation*

- *In shaping the practice of the assisted voluntary return of unaccompanied minors, it is necessary to take into account international documents and best practices in assisted voluntary return from other states to ensure protection of minor's best interests.*

## **6.2. REINTEGRATION OF UNACCOMPANIED MINORS FOREIGN NATIONALS IN THE COUNTRY OF ORIGIN**

In Lithuania, before 2009, there were no projects on reintegration of foreign nationals in the country of origin, therefore Lithuania also lacks experience on reintegration of unaccompanied minors. Reintegration is not defined and regulated by legislation in Lithuania. Reintegration activities are foreseen to be implemented under multi-year program of the European Return Fund in Lithuania for 2008–2013. The program foresees that there will be conducted a best practice study of reintegration projects implemented by other countries and established the need for integration in the country of origin. It is also foreseen to develop and implement pilot reintegration projects, to create a standard reintegration model, to cooperate with the countries of origin in implementing reintegration projects / schemes.

It is not foreseen to include the preparation of special reintegration schemes for unaccompanied minors in the 2008–2013 program.

***Conclusions***

- Lithuania lacks practical experience in the voluntary return and reintegration of unaccompanied minors, because until 2009 there were no such cases registered. Besides, these activities were not financed before 2009.
- In 2009, it is planned to use the funds of the Return Fund to study reintegration models of other countries and to create such model in Lithuania.

## 7. CONCLUSIONS

This research was conducted in Lithuania, in March–June 2009 under the European Migration Network 2009 Work Programme. The research analyzed Lithuanian legal framework regulating the situation of unaccompanied minors and the actual practice of identifying, receiving, accommodating, integrating and returning unaccompanied minors. The research was done in cooperation with experts of IOM Vilnius Office and UNHCR representation in Lithuania. Although during research, there were several research methodologies used (statistical analysis, legal analysis, expert interview, in-depth interviews with minors), it is important to note that the research presents a rather static analysis of the current situation and cannot reflect all problems of unaccompanied minors and the dynamics of relevant issues. For this reason, expert interview and analysis of several case studies of unaccompanied minors contributed significantly towards ensuring the trustworthiness of the research. To gain a better understanding of the problem, in the future it would be beneficial to repeat such research or even to perform longitudinal studies.

### *Statistics*

In Lithuania, detailed statistical information is collected centrally only about unaccompanied minors seeking asylum, that is, about minors who were admitted to the asylum procedure. This data is collected by the Migration Department. Data on unaccompanied minors not seeking asylum is not collected centrally. The authors were able to obtain only fragmented data from various institutions dealing with such minors.

During the research it was noted that certain data is not recorded in Lithuania at all. The State Border Guard Service accumulates only general data about arrivals/departures, but does not distinguish unaccompanied minors as a separate group. There is no data collected on unaccompanied minors refused entry – those who failed to submit an asylum application and were returned from the border to the state, from which they arrived. Also, there is no detailed data about detention of unaccompanied minors.

In 2001, the biggest number of unaccompanied minors (41 cases) was registered. Since 2001, one observes a steady decline in numbers of unaccompanied minors who seek asylum in Lithuania. In 2008, there was only one case registered of unaccompanied minor seeking asylum.

### *Legal framework*

In Lithuania, the legal status of unaccompanied minors is regulated by the Law on the Legal Status of Aliens. Legal provisions in place in principle fulfill standards posed by the EU and UN.

The law mentions two groups of unaccompanied minors:

- unaccompanied minor alien foreign national;
- unaccompanied minor asylum applicant.

The Law protects the rights of all unaccompanied minors, however, it distinguishes unaccompanied minors asylum applicants as especially vulnerable group and foresees certain exceptions, which are not applicable to other asylum seekers:

- appointment of temporary care (guardianship) and representation of unaccompanied minor's interests in all procedural questions: during questioning, in taking decision on his/her accommodation and so on (applicable to all unaccompanied minors but in practice guardianship is appointed only to unaccompanied minors seeking asylum);
- the right to accommodation, education, medical, legal, and social care free of charge, regardless of his/her status (extends to all unaccompanied minors);
- accommodation only in specially equipped premises in the Refugees' Reception Center (applicable only to asylum applicants);
- the use of administrative detention only in extreme cases, taking into consideration child's best interests (applicable to all unaccompanied minors);
- prohibition to refuse an entry to the country, even if unaccompanied asylum seeker arrived from a safe third country (applicable only to asylum seekers);
- decision on the return is taken only if in the foreign state, to which minor is returned, the unaccompanied minor shall be properly cared for, taking into account his needs, age, and the level of independence (applicable to all unaccompanied minors).

The Law does not foresee any exceptions to unaccompanied minors during arrival, identification, asylum procedure and the period of integration, except for the need to appoint a guardian to such unaccompanied minors, who would represent legal interests of a minor.

The Law only partially regulates the legal status of unaccompanied minors not seeking asylum. In Lithuania, such unaccompanied minors are compared with illegal migrants and officials try to expel them from the country as soon as possible. The authors view this situation to signal shortcomings of the legal framework, therefore, it is necessary to pass changes to legal acts defining responsible institutions and procedures used in the case of unaccompanied minors not seeking asylum. Currently, legal regulation of unaccompanied minors foreign nationals not seeking asylum does not correspond to child's best interests.

### *Practice*

The practice applied in regard of unaccompanied minors asylum applicants in Lithuania in principle corresponds to child's best interests. However, the research has also recorded certain problematic areas. More serious problems are associated with unaccompanied minors not seeking asylum. Due to imperfect legal regulation, it is difficult to ensure in practice interests and protection of such unaccompanied minors.

During the research, the following general observations were made on practice applied in regards of unaccompanied minors:

- **Arrival:** There are few unaccompanied minors coming to Lithuania (during 2000–2008 there were 137 unaccompanied minors asylum seekers recorded and the number is decreasing). This circumstance can be explained by strict controls imple-

mented by third countries (Russia and Belarus) and carriers. Although the Law forbids to refuse an entry into the country to unaccompanied minor, one comes across cases, when unaccompanied minors – who fail to submit asylum application and do not have documents – can be refused an entry into the country and returned to the country, from which they arrived. Such cases are even not registered in statistical data. It is necessary to ensure that all unaccompanied minors are properly informed by officials about the possibility to seek asylum. Also, it is necessary to record all cases of return of unaccompanied minors, even those who were denied an entry into the country. If asylum application has been lodged, unaccompanied minor in all cases is granted entry into the country.

- **Identification:** Most frequently primary identification (questioning) takes place at the border checkpoint. Although the Law states that for the period of the child's stay in the Republic of Lithuania (s)he shall be taken into temporary guardianship/curatorship and the temporary guardian/curator of an unaccompanied minor alien shall represent the interests of the unaccompanied minor foreign national, in practice, in many cases, during primary identification the guardian is not yet appointed and does not take place in questioning. In such questionings, most often there is present a representative of municipal child's rights protection agency, although (s)he is not officially appointed as a guardian. There are also problems with the participation of an interpreter during primary questioning. There is no system created for participation of interpreters in such questionings, so in every separate case State Border Guard Service officials must ensure the participation of an interpreter with resources at their disposal. Besides, experts note that questionings of unaccompanied minors are conducted by officials lacking special training. There are no specialized trainings organized for them.

- **Asylum/international protection:** In Lithuania, the procedure of granting asylum is thoroughly defined in the Law and in supporting legal acts. The legislation does not foresee any exceptions for unaccompanied minors, except participation of a legal representative or a guardian in all procedural actions. In Lithuania, not a single unaccompanied minor was granted a refugee status. In all cases, they were granted subsidiary protection for one year with the possibility to extend it. Asylum applications are processed in Lithuania in 3 month. Applications of unaccompanied minors usually are processed in expedited manner. However, during the conversations experts felt that unaccompanied minors regard this time with high uncertainty. They do not fully understand the procedure and its outcomes and feel stressed about it. The role of immediate care givers who together with a minor can explore the procedure and his/her future alternatives is crucial. Conversation about asylum procedure can increase certainty and mitigate general anxiety.

- **Accommodation:** According to the Law unaccompanied minors seeking asylum are accommodated at premises of the Refugees' Reception Center in Rukla. The Law also foresees that unaccompanied minor can be accommodated with the guardian, but there were no such cases registered in Lithuania. There are sometimes cases, when unaccompanied minors whose age is in doubt are temporarily accommodated at the Foreigners' Registration Center, although this institution is not suitable for unaccom-

panied minors. However, after it is established that asylum seeker is below 18 years old, (s)he is transferred to the Refugees' Reception Center. In the Center, the minor lives under supervision of an appointed guardian. (S)he receives 169 Lt (49 Eur) monthly payment for food supplies and miscellaneous expenses. This amount is insufficient for unaccompanied minors.

Neither the law nor legislation provide details on the issue of accommodating unaccompanied minors not seeking asylum; rather they foresee a general principle stating that such unaccompanied minors must be accommodated. Here, one faces practical problems. Such unaccompanied minors are accommodated at various institutions, not always suitable for minors. Such behavior represents flawed practice that needs to be improved.

- **Detention:** The Law foresees that unaccompanied minors can be detained only in exceptional cases. However, detention of unaccompanied minors not seeking asylum is a frequent practice in Lithuania. Officially invoke administrative detention towards them with an aim to expel them from Lithuania. On some occasions, such unaccompanied minors are detained and held in custody together with other suspects. This can turn into a very traumatic experience, especially if a minor has arrived from a military conflict region. Not infrequently, unaccompanied minors not seeking asylum are detained and accommodated at the Foreigners' Registration Center, although it is not suitable for children. Experts point to the need to find alternatives to detention of unaccompanied minors and to avoid the cases of holding unaccompanied minors, who did not commit criminal wrongdoings, in custody.

- **Integration:** Integration of unaccompanied minors granted international protection is conducted by the Refugees Reception Center. Here, unaccompanied minors receive all necessary services. Various activities, intensive language courses take place in the Center; all unaccompanied minors attend Rukla secondary school. The Law foresees that unaccompanied minors can live in the Center and receive all necessary services until they turn 18 years old. After that, state-sponsored integration can be extended for another year. Experts note that unaccompanied minors, who enroll at full study educational establishment upon attaining adulthood, face challenges. Such unaccompanied minors should have their integration period extended or provided with other type of support in order to enable them to study. Such decision would encourage aliens granted asylum to study and lead to their successful integration.

- **Return:** The Law states that the decision on return can be taken only in the case of unaccompanied minors, who stay in Lithuania illegally and only in the case if the state, to which they are returned, they would be properly cared for, by taking into account their needs, age and the level of independence. In practice, unaccompanied minor is returned if a corresponding institution of the foreign state – to which (s)he can travel – confirms that it will accept the unaccompanied minor. Experts note that such procedure is a formal exercise rather than actual evaluation of situation and conditions.

If unaccompanied minor fails to apply for asylum and does not have necessary documents, (s)he can be immediately returned to the state, from which (s)he has arrived. Experts note that cases might occur when unaccompanied minors who are in the need

of international protection, but who failed to produce asylum application by themselves are returned. The authors also want to draw attention to the fact that the Law does not oblige officials to inform unaccompanied minor about the possibility to apply for asylum.

### *Recommendations*

The research has demonstrated that in Lithuania one distinguishes two categories of unaccompanied minors aliens: unaccompanied minors asylum applicants and unaccompanied minors who do not seek asylum. In the case of unaccompanied minors seeking asylum both – the legal regulation and the practice –in principle correspond to child's best interests. Case study analysis of unaccompanied minors not seeking asylum has demonstrated that legal regulation does not correspond to child's best interests, while practice varies depending on institution and officers who detained the unaccompanied minor. Therefore, legal acts should fully regulate legal status of unaccompanied minors not seeking asylum and standardize practice applied to them, especially in addressing the issues of accommodation, detention and return.

Also, it is recommended to address certain shortcomings noted in practice:

- Ensure the presence of interpreters during primary questioning;
- Organize trainings for officials conducting primary questioning of unaccompanied minors / to prepare officials, who could – when needed – conduct professionally such questionings;
- Regulate the issue of accommodating unaccompanied minors not seeking asylum;
- Analyze the issue of correspondence between monetary allowance allocated to unaccompanied minors and the minimal expenses they incur;
- Pay more attention and recognition to the work of immediate care-givers working with unaccompanied minors;
- Consider the possibility of extending integration in municipalities for those individuals enjoying any form of international protection, who seek to continue their education;
- Improve the practice of returning unaccompanied minors, especially the procedure of identifying their family members;
- Ensure the possibility for unaccompanied minors being returned to benefit from voluntary return assistance.

## 8. SOURCES OF INFORMATION

### 8.1. LITHUANIAN LEGAL ACTS:

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2. 3 December 2008 Lithuanian Immigration Policy Guidelines of the Government of Lithuania;
3. The Schengen Border Code;
4. The Civil Code of the Republic of Lithuania;
5. The Law on the Legal Status of Aliens;
6. Rules on taking and implementing decisions to oblige foreign nationals to depart, expel, return and travel in transit throughout the territory of the Republic of Lithuania, approved by 24 December 2004 order of the Minister of the Interior No. 1V-429;
7. New edition of the Law on Health Insurance of the Republic of Lithuania, valid from 1 January 2009;
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9. Rules on accommodation of unaccompanied minors seeking asylum at the Refugees Reception Center approved by 2 February 2005 order of the Minister of the Interior and the Minister of Social Protection and Labor No. 1V-31/A1-28;
10. Order of the Minister of Social Protection and Labor on Approval of provisions of the Refugee Reception Center, passed on 18 August 2005 No. A1-234;
11. Description of procedure on processing of asylum applications lodged by foreign nationals, taking and implementing asylum decisions, approved by 15 November 2004 order of the Minister of the Interior No. 1V-361;
12. Amendments to 15 November 2004 Minister of the Interior order No. 1V-361 on Description of procedure on processing of asylum applications lodged by foreign nationals, taking and implementing asylum decisions, passed in May 2007;
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14. 14 April 2006 Minister of Social Protection and Labor order No. A1-107 "On changes to description of procedure of providing assistance by the Lithuanian state to integration of foreigners granted asylum in the Republic of Lithuania approved by 11 January 2006 Minister of Social Protection and Labor order No. A1-13".

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2. Child's Rights Protection Committee 17 March 2006 Report on Lithuania concerning the Convention of the Rights of the Child CRC/C/LTU/CO/2 (in English)
3. 2006 The Institution of Child Rights Ombudsman research on the conditions of receiving children asylum seekers in Lithuania.
4. 2006 National report, commissioned by the European Commission to "Odysseus" academic network, on the implementation of the reception directive in Lithuania
5. 2007 National report on Lithuania prepared for European Commission program DAPHNE II project "Unaccompanied minors: defense mechanisms in the enlarged European Union" Florence university (University degli Studi di Firenze).
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7. Coalition to stop the Use of Child Soldiers, Child Soldiers Global Report Lithuania 2008, [www.unhcr.org/refworld/docid/486cb114c.html](http://www.unhcr.org/refworld/docid/486cb114c.html)
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9. Child's Rights Protection Committee examines report of Lithuania on Optional Protocol on Children and Armed conflict, [www.unog.ch/80256EDD008B9C2E/ \(httpNewsByYear\\_en\)/èED593510B1FBE78C12](http://www.unog.ch/80256EDD008B9C2E/(httpNewsByYear_en)/èED593510B1FBE78C12)
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### **8.4. SPECIALIZED LITERATURE**

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**ON THE ROAD: UNACCOMPANIED MINORS IN LITHUANIA**

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