

LITHUANIA

Lithuania is a state party to the United Nations Convention Relating to the Status of Refugees and its Protocol, as well as to the International Covenant on Civil and Political Rights and its First and Second Optional Protocols. In 2000, 199 asylum applications were filed, and at the end of the year 63 applicants were awaiting first instance decisions on their applications.¹ By year's end 2001, Lithuania had received 256 asylum applications.² After September 11, Lithuanian authorities appeared to take additional security measures with respect to asylum seekers from Afghanistan. A group of 30 Afghan asylum seekers who arrived before September 11 were still being held at year's end in detention on vague national-security grounds.³

Asylum seekers may submit asylum applications upon entry to the Lithuanian border police at state border points, city police precincts, the Foreigners Registration Center and other state or municipal authorities.⁴ The Migration Department decides admissibility within 48 hours of submission of the asylum application. If the foreigner is admitted, his or her legal status changes to that of an asylum seeker.⁵

In practice, few asylum seekers are detained; in a 2001 report, ECRE reported that only five asylum seekers had been detained since September 2000.⁶ Section 12(1) of the Law on Refugee Status 2000 lists five grounds under which asylum seekers may be detained: (1) to prevent the foreigner from unauthorized entry into the country; (2) when actions are taken with regards to deportation of a foreigner; (3) to ascertain the reasons why the foreigner has used forged identity documents or destroyed them; (4) to prevent the spread of infectious diseases; and (5) on grounds provided by the laws of the Republic of

¹ U.S. COMMITTEE FOR REFUGEES, WORLD REFUGEE SURVEY 2001 at 238, *available at* <http://preview.refuges.org/world/worldmain.htm> (Immigration and Refugee Services of America 2001) [hereinafter USCR WORLD REFUGEE SURVEY 2001].

² U.S. COMMITTEE FOR REFUGEES, WORLD REFUGEE SURVEY 2002 *available at* <http://www.refugees.org/WRS2002>. (Immigration and Refugee Services of America 2002) [hereinafter USCR WORLD REFUGEE SURVEY 2002].

³ *Id.*

⁴ E-mail from Migle Cirbaite, Legal Assistance Project to Refugees, Lithuanian Red Cross, to Min Jung Lee, Debevoise & Plimpton (Nov. 23, 2001) (on file with Debevoise & Plimpton) [hereinafter Lithuanian Red Cross Correspondence (Nov. 23, 2001)].

⁵ *Id.*

⁶ EUROPEAN COUNCIL ON REFUGEES AND EXILES, STUDY ON THE AVAILABILITY OF FREE AND LOW-COST LEGAL ASSISTANCE FOR ASYLUM SEEKERS IN EUROPEAN STATES AT 199, *available at* <http://www.ecre.org/research/legalassistance/index.shtml> (November 2001) [hereinafter ECRE EUR. STUDY 2001].

Lithuania.⁷ According to Section 12(2) of the Law on Refugee Status, police authorities may detain arrivals who enter illegally, including those without valid travel documents, for up to 48 hours for identity determination and other purposes.⁸ After this 48-hour period has elapsed, detention can be prolonged only by the decision of the court, which may order transfer of the asylum seeker to the Foreigners Registration Center in Pabrade pending a decision on admissibility.⁹

Asylum seekers who have submitted applications are accommodated at the Foreigners Registration Center until the Migration Department makes a decision on the procedure for examining the application. If the asylum seeker's application is being examined under the regular procedure, she is accommodated at the Refugee Reception Center. According to Article 13 of the Law on Refugee Status, asylum seekers who legally arrived or reside in Lithuania are permitted to stay in a place of residence of his choice.¹⁰ The Refugee Reception Center houses men and women separately, and cooking facilities are provided. Asylum seekers must apply to the director of the center for leave to travel within the country for up to 72 hours, which is regularly granted. Allowance for clothing, medical treatment and other services are provided for those at the center.¹¹

In January 2002, the Lithuanian Parliament adopted the amendments to the Law on Refugee Status (the "Refugee Law Amendments").¹² The Lithuanian Parliament rejected an alternate bill, offered by the State Security Department, that would have introduced mandatory detention of asylees.¹³¹⁴ The amendments provide that when the ground for

⁷ ECRE EUR. STUDY 2001, *supra* note 6, at 198-99.

⁸ ECRE EUR. STUDY 2001, *supra* note 6, at 199; Lithuanian Red Cross Correspondence (Nov. 23, 2001), *supra* note 4.

⁹ DANISH REFUGEE COUNCIL, LEGAL AND SOCIAL CONDITIONS FOR ASYLUM SEEKERS AND REFUGEES IN CENTRAL AND EASTERN EUROPEAN COUNTRIES, *available at* <http://www.english.drc.dk/publications/> (Apr. 1999) [hereinafter DRC E. EUR. REPORT 1999], *Lithuania*; USCR WORLD REFUGEE SURVEY 2001, *supra* note 1, at 239; ECRE EUR. STUDY 2001, *supra* note 6, at 199.

¹⁰ E-mail from Migle Cirbaite, Legal Assistance Project to Refugees, Lithuanian Red Cross, to Min Jung Lee, Debevoise & Plimpton (Sept. 13, 2002) (on file with Debevoise & Plimpton) [hereinafter Lithuanian Red Cross Correspondence (Sept. 13, 2002)].

¹¹ DRC E. EUR. REPORT 1999, *supra* note 9, *Lithuania*.

¹² USCR WORLD REFUGEE SURVEY 2002, *supra* note 2, at 193; EUROPEAN COUNCIL ON REFUGEES AND EXILES, COUNTRY REPORTS 2001 at 140, *available at* <http://www.ecre.org/publications/countryrpt01.shtml> [hereinafter ECRE REPORT 2001].

¹³ ECRE REPORT 2001, *supra* note 12, at 142-43.

detention is being established, the Court should adopt a decision to apply alternatives to detention after it has taken into account the circumstances and characteristics specific to the foreigner, including his/her vulnerability and the level of his/her threat to society, as well as other circumstances important to the refugee status determination procedure. These alternative measures include requiring the foreigner to present him/herself periodically to the territorial police and to inform the territorial police about his/her location at a certain time. Under the new law, foreigners may request accommodation from an NGO, a Lithuanian citizen or a non-citizen relative who is legally residing in the Republic of Lithuania, provided that the foreigner fulfills his/her obligations provided in the Law on Refugee Status.¹⁵

Is there independent review of the detention decision? Yes.

After the 48-hour detention period for identity determination has elapsed, detention can be prolonged only by the decision of the court, which may order transfer of the asylum seeker to the Foreigners Registration Center in Pabrade pending a decision on admissibility.¹⁶

The possibility of review of a detention decision is provided by the Order of the Minister of Internal Affairs of the Republic of Lithuania (Oct. 5, 2001), which regulates the examination of asylum applications. Under Point 23 of the Order, officials of the Foreigners Registration Center, where asylum seekers are detained by court decision, must evaluate the grounds for detention every month of the detention. If these officials find that there are no grounds for the detention, they are to apply to the court for abolishment of the detention.¹⁷

Although asylum seekers themselves cannot seek independent review of detention, if the Foreigners Registration Center does not fulfill its obligation to apply to the court for abolishment of the detention, they may make a complaint to the court against the Foreigners Registration Center for failure to act.¹⁸

¹⁴ USCR WORLD REFUGEE SURVEY 2002, *supra* note 2, at 193.

¹⁵ Lithuanian Red Cross Correspondence (Nov. 23, 2001), *supra* note 4.

¹⁶ DRC E. EUR. REPORT 1999, *supra* note 9, *Lithuania*; USCR WORLD REFUGEE SURVEY 2001, *supra* note 1, at 239; ECRE EUR. STUDY 2001, *supra* note 6, at 199.

¹⁷ Fax from Ilona Petrikiene, Second Secretary, Migration Department of Lithuania, Mission Permanente de la Lituanie Aupres de l'Office Des Nations Unies a Geneve, Response to LCHR Questionnaire on Detention of Asylum Seekers (Jan. 9, 2002) (on file with Debevoise & Plimpton) [hereinafter *Lithuanian Response to LCHR Questionnaire*].

¹⁸ Lithuanian Red Cross Correspondence (Sept. 13, 2002), *supra* note 10.

The Refugee Law Amendments establish independent review, periodic review of detention and limits on the period of detention.¹⁹ According to its provisions, the district court, no later than 10 days within receipt of the request of the Foreigners Registration Center, shall review the decision to detain the asylum seeker and adopt one of the following decisions: (1) uphold the decision to detain the asylum seeker; (2) reconsider the decision to detain the asylum seeker; or (3) reverse the decision to detain the asylum seeker and obligate the Migration Department to adopt a decision with respect to accommodation of the asylum seeker without restriction to his/her freedom of movement.²⁰

Are there limits on the period of detention? 12 months.

Prior to the adoption of the Refugee Law Amendments, asylum seekers who were detained in the Foreign Registration Center had to remain in detention until they were granted refugee status unless the court ordered otherwise.²¹ Asylum seekers therefore could only be detained for the period of the examination of their asylum application. Section 16 of the Law on Refugee Status states that the total period for examination of the asylum application shall not exceed 12 months.

The Refugee Law Amendments amending and supplementing the Law on Refugee Status explicitly provides that the whole period of the detention of an asylum seeker may not exceed 12 months.²²

Is there periodic review of detention? Yes.

As stated above, Point 23 of the Order of the Minister of Internal Affairs of the Republic of Lithuania (Oct. 5, 2001) provides for monthly review of the grounds for detention by officials of the Foreigners Registration Center.

Is there access to government-funded legal aid? Yes.

Asylum seekers have access to free legal assistance, which is funded by the Government at all stages of the asylum procedure. Legal assistance is provided by the lawyers of the Legal Assistance Project to Refugees and Asylum Seekers of the Lithuanian Red Cross. The Government funds legal consultations by the Lithuanian Red Cross at the border, the Foreigners Registration Center, the Refugee Reception Center and other locations. It also

¹⁹ Lithuanian Red Cross Correspondence (Nov. 23, 2001), *supra* note 4.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*; Lithuanian Response to LCHR Questionnaire, *supra* note 17.

provides funds for asylum interview and appeal procedures.²³ In addition, government-funded interpreters are required during investigation of an asylum seeker.

Alternatives to detention: The amendments provide that when the ground for detention is being established, the Court should adopt a decision to apply alternatives to detention after it has taken into account the circumstances and characteristics specific to the foreigner, including his/her vulnerability and the level of his/her threat to society, as well as other circumstances important to the refugee status determination procedure. These alternative measures include requiring the foreigner to present him/herself periodically to the territorial police and to inform the territorial police about his/her location at a certain time. Under the new law, foreigners may request accommodation from an NGO, a Lithuanian citizen or a non-citizen relative who is legally residing in the Republic of Lithuania, provided that the foreigner fulfills his/her obligations provided in the Law on Refugee Status.²⁴

Vulnerable groups: Article 12 of the Law on Refugee Status states that minors shall be detained in exceptional cases only. The Bylaws set special requirements for the examination of their asylum applications.²⁵ Between 1999 and 2000, 11 unaccompanied minors applied for asylum. Representatives from the Children's Rights Protection Service Representatives, a governmental organization, attended their asylum interviews at the Foreigners Registration Center.²⁶

The Refugee Law Amendments provide that a guardian shall be appointed when an issue pertaining to the detention of an unaccompanied minor is being considered in court. It also explicitly states that the Law on Fundamentals of Protection of the Rights of the Child, which provides that the best interests of the child must be taken into account, must be observed when imposing detention on an unaccompanied minor. In addition, the amendments provide temporary guardianship for unaccompanied minors and the right for separated children granted refugee status to be reunited with family.²⁷ Officers conducting the investigation of an unaccompanied minor's case are required to make inquiries to other foreign countries, except his country of origin, concerning the whereabouts of the minor's parents.²⁸

²³ *Id.* However, such funding covers only the small part of the expenses of the Legal Assistance Project for Refugees and Asylum Seekers of the Lithuanian Red Cross. Lithuanian Red Cross Correspondence (Sept. 13, 2002), *supra* note 10.

²⁴ *Id.*; Lithuanian Response to LCHR Questionnaire, *supra* note 17.

²⁵ *Id.*

²⁶ ECRE EUR. STUDY 2001, *supra* note 6, at 200.

²⁷ USCR WORLD REFUGEE SURVEY 2002, *supra* note 2, at 193; Lithuanian Response to LCHR Questionnaire, *supra* note 17.

²⁸ ECRE REPORT 2001, *supra* note 12, at 141.

The Bylaws foresee special requirements for the investigation, particularly the order of interviewing, of traumatized persons, single women and minors. However, special detention conditions for these groups are not foreseen.²⁹

²⁹ Lithuanian Red Cross Correspondence (Nov. 23, 2001), *supra* note 4.